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BOARD MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD

CITY OF SAN DIEGO ENVIRONMENTAL SERVICES
AUDITORIUM, 1st FLOOR
9601 RIDGEHAVEN COURT
SAN DIEGO, CA

TUESDAY, NOVEMBER 15, 2005

9:30 A.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Ms. Rosario Marin, Chair

Ms. Rosalie Mul

Ms. Cheryl Peace

Mr. Gary Petersen

Mr. Carl Washington

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Ms. Marie Carter, Chief Counsel

Ms. Jeannine Bakulich, Executive Assistant

Ms. Helen Carriker, Branch Manager, Financial Assistance
Branch

Mr. Robert Conheim, Staff Counsel

Mr. Tom Estes, Deputy Director, Administration & Finance
Division

Ms. Judy Friedman, Branch Manager, Organics & Resource
Efficiency

Mr. Jeff Hunts, Supervisor, Electronic Waste Recycling
Section

Mr. Michael Leason, Supervisor, Plastics Technology Section

Mr. Jim Lee, Deputy Director, Special Waste Division

Mr. Howard Levenson, Deputy Director, Permitting and
Enforcement Division

Mr. Jon Myers, Assistant Director, Public Affairs Office

Mr. John Smith, Acting Deputy Director

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES CONTINUED

STAFF

Mr. Pat Schiavo, Deputy Director

Ms. Shirley Willd-Wagner, Branch Manager, Electronic
Waste Recycling Branch

ALSO PRESENT

Mr. Dave Ault, Republic Services

Ms. Heather Bowman, Hewlett Packard

Ms. Katherine Brandenburg, Institute of Scrap Recycling
Industries

Mr. Evan Edgar, CRRC

Mr. Elmer Heap, Director, City of San Diego Environmental
Services Department

Ms. Christine Henke, American Electronics Association

Mr. Dennis Kazarian, E-Recycling of California

Ms. Christine Knapp, County of Orange

Mr. Leonard Lang, Allan Company

Mr. George Larson, Waste Management

Mr. Mark Murray, Californians Against Waste

Mr. David Pelser, Director, Department of Waste Management
and Recycling, Sacramento County

Mr. Coby Skye, L.A. County Department of Public Works

Ms. Cynthia Vanthul, Waste Management, San Gabriel Valley

Ms. Lisa Wood, City of San Diego, SWANA CTE

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1 PROCEEDINGS

2 CHAIRPERSON MARIN: Good morning, and welcome to
3 our San Diego Board meeting of the California Integrated
4 Waste Management Board. We are very, very excited.

5 We're so lucky to be -- it is fitting that we
6 would be in the Environmental Services Building and a
7 green building of San Diego. Mr. Elmer said that he was
8 going to give us a tour, and he wasn't there for the tour.
9 He's going to have to address that later on. But as a
10 matter of fact, the person that gave us the tour was an
11 outstanding presenter, and we're actually pretty happy you
12 did not give the tour.

13 Welcome, Board members. Welcome, everybody.
14 This is going to be a great meeting, a lot of very
15 important things we're going to do.

16 And before we start, would you please call the
17 roll?

18 EXECUTIVE ASSISTANT BAKULICH: Mulé?

19 BOARD MEMBER MULÉ: Here.

20 EXECUTIVE ASSISTANT BAKULICH: Peace?

21 BOARD MEMBER PEACE: Here.

22 EXECUTIVE ASSISTANT BAKULICH: Petersen?

23 BOARD MEMBER PETERSEN: Here.

24 EXECUTIVE ASSISTANT BAKULICH: Washington?

25 BOARD MEMBER WASHINGTON: Here.

1 EXECUTIVE ASSISTANT BAKULICH: Marin?

2 CHAIRPERSON MARIN: And I'm here.

3 Today marks a special day. We're going to do a
4 number of things, but we couldn't go forth without
5 welcoming our newest Board member, Mr. Gary Petersen. Now
6 how many times have you been welcomed?

7 BOARD MEMBER PETERSEN: I don't know. A lot.

8 (Applause)

9 CHAIRPERSON MARIN: We are truly delighted to
10 have him as our colleague. And I think for those of you
11 that have known him for a long time, you know that he
12 brings with him an incredible amount of experience. And
13 he's actually one of the pioneers in California. He's
14 really old, in the recycling business. I think he is
15 known as Mr. Recycling. He is the recycler to the stars
16 and the wannabe stars. You'll get your chance to say a
17 few things. So we welcome him.

18 And before we continue, Ms. Mulé, will you be so
19 willing to lead us in the Pledge of Allegiance?

20 (Thereupon the Pledge of Allegiance was
21 recited in unison.)

22 CHAIRPERSON MARIN: We will be very, very happy
23 if you turn off your cell phones or put them on silence or
24 meeting mode, whatever it is. There are speaker slips
25 located on the tables back there. If you would like to

1 address the Board, you're welcome to do that. For those
2 that have never addressed the Board, it's very simple.
3 Just fill out the form and give it to Jeannine Bakulich.

4 And any ex partes, Board members?

5 Mr. Washington?

6 BOARD MEMBER WASHINGTON: I'm up to date.

7 CHAIRPERSON MARIN: Ms. Peace?

8 BOARD MEMBER PEACE: I'm up to date.

9 CHAIRPERSON MARIN: Ms. Mulé?

10 BOARD MEMBER MULÉ: Madam Chair, I just spoke to
11 George Larson and Cynthia Vanthul regarding our e-waste
12 item.

13 BOARD MEMBER PETERSEN: Madam Chair, I just
14 talked to Art Kazarian, George Larson, Paul Ryan, Mark
15 Murray, Leonard Lang, Katherine Brandenburg, and Mike
16 Hammer. Up to date.

17 BOARD MEMBER WASHINGTON: I'm sorry, Madam Chair.
18 I did speak to Mark Murray and Mike Hammer, likewise.

19 CHAIRPERSON MARIN: Okay. And I only spoke to
20 Katherine Brandenburg.

21 With that, I think we're ready to roll. Let's
22 see. We are going to have a -- it's not going to be full,
23 but we have so many things to share with all of you.

24 Ms. Mulé, any reports from you?

25 BOARD MEMBER MULÉ: Thank you, Madam Chair.

1 On October 19th, I attended the E-Waste
2 Regulations Workshop in Sacramento.

3 And then on the 24th of October, I was at the
4 Universal Waste Workshop in Sacramento in the morning, and
5 then also our Permitting and Enforcements Post-Closure
6 Maintenance and Cost Estimate meeting that afternoon.

7 On October 25th, I was a speaker at the San
8 Bernardino County Solid Waste Task Force meeting and
9 discussed the Board's participation and activities in
10 conversion technologies.

11 And on the 26th, myself and some of our staff
12 toured the Inland Empire Utility Agency in Chino. They
13 are a platinum LEED certified building. And if anyone has
14 not been there, they really should go and tour this
15 facility. It's very impressive. One of the things was
16 they thought that their payback on their energy
17 conservation measures would be twelve years, and they
18 found out it was only three years. Three years, they were
19 going to get their payback on that.

20 On the 27th, I joined you and other Board members
21 and staff at the Governor's and First Lady's Conference on
22 Women and Families in Long Beach.

23 And on November 1st, attended the First Annual
24 Policy Advisory Committee for Forest Remediation, a
25 biomass to energy project. That was at U.C. Davis.

1 And then on the 2nd and 3rd joined you for the
2 RAC-n-Roll Tour in Southern California. Very interesting.
3 And I think we got a lot of ideas from that tour.

4 And then yesterday I was again joining all our
5 Board members at the ground-braking ceremony for the first
6 mixed processing C&D facility in San Diego County, Edco
7 facilities in Lemon Grove.

8 That concludes my report, Madam Chair.

9 CHAIRPERSON MARIN: Ms. Peace.

10 BOARD MEMBER PEACE: Well, good morning. And
11 welcome Board members and others who have traveled to be
12 here. Welcome to my neck of the woods, beautiful
13 San Diego. And thank you, City of San Diego Environmental
14 Services Department, for hosting this meeting this
15 morning.

16 October 19th, I attended the E-Waste Stakeholder
17 Workshop that staff was directed to conduct. Thank you,
18 Jeff Hunts, Shirley Willd-Wagner, Bob Conheim, and all the
19 others that are involved in this effort. I heard opinions
20 and ideas on how to solve some of the perceived problems
21 with the emergency e-waste regulations. What I didn't
22 hear was really any clear consensus. Staff has worked
23 hard over the last couple weeks to make changes to the
24 emergency regulations that I think we can all live with
25 now.

1 October 26th, I met with Charlie Tripp who took
2 me on a tour of the Southeast Resource Recovery Facility,
3 SRRF in Long Beach. That's short for waste to energy
4 facility. SRRF takes in about 1380 tons a day of solid
5 waste. And even though front-end recycling has been
6 performed before the waste comes in, an average of 825
7 tons of metal are back-end recycled each month rather than
8 sent to a landfill.

9 As a public service and at the request of law
10 enforcement agencies in California, SRRF also destroys an
11 average of 17,000 pounds of narcotics and drug related
12 paraphernalia each month. Besides getting an 80 and
13 90 percent reduction in waste, the plant generates enough
14 electricity, which is sold to Edison, to not only operate
15 the facility, but to power 35,000 homes.

16 On October 27th, I attended along with other
17 female Board members and Exec staff, the Governor's
18 Conference for Women. Pat Schiavo, Phil Morales, Steve
19 Uselton, Trevor O'Shaughnessy, and other Board members
20 were there to make sure that the conference was a zero
21 waste event. Thank you to all involved. I don't know how
22 you felt about being surrounded by 11,000 women, but you
23 did a great job.

24 BOARD MEMBER WASHINGTON: I don't have any
25 problem with that.

1 BOARD MEMBER PEACE: I tell you, I do have to say
2 Maria Shriver is a truly inspirational speaker. She's
3 charming, warm, funny, intelligent, down to earth, and
4 with a lot of common sense. My advise to Arnold, I don't
5 know if it's going to get me in trouble, fire your
6 high-priced political consultants. You don't need them.
7 You have Maria.

8 November 3rd, I spoke at the Southern California
9 Waste Management Forum in Los Angeles. The topic was
10 evolution of waste and what we have achieved and where
11 we're going. The majority of the people there were of the
12 opinion that where we needed to go is in the direction of
13 conversion technologies. For those of you who don't know
14 and are interested, we are all headed up tomorrow to
15 Los Angeles for the Legislature where we'll be holding
16 some conversion technology hearings.

17 That concludes my report.

18 CHAIRPERSON MARIN: Mr. Washington.

19 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

20 Very briefly, I also attended the E-Waste
21 Workshop. And most of the time I listened in upstairs in
22 my office while I was holding meetings and came down at
23 the end of the workshop. And, again, I, too, want to
24 thank Jeff and Bob with the Legal and all the guys who
25 worked so hard to really try to put the whole e-waste

1 project together. It's really a difficult situation. And
2 you guys are doing a wonderful job through your
3 difficulties.

4 I had a chance and had the opportunity to present
5 the WRAP awards to the South Bay cities at their 6th
6 Annual Regional WRAP Award Ceremony, which is a very big
7 event down in Southern California. This year -- I don't
8 know if Ronnie or Piper are here, but I believe in
9 Southern California, six of the WRAP of the Year winners
10 come from Southern California. And so they are very
11 excited about that.

12 Then I attended the -- I visited one of the WRAP
13 of the Year events, Westlers Retail Store in Torrance.
14 It's a family-owned operation. And they have a little
15 daughter -- Madam Chair, you would love to see the little
16 daughter. The granddaughter is about five years old. She
17 works the cash register. She makes the announcement over
18 the PA system. She sounds like she's 22 over the system,
19 and I'm just like, I said, where is this kid? She was
20 hiding under the desk so you can't see her. It was
21 wonderful how they've trained this young lady, so when
22 it's their time to move on, they have someone ready to
23 step right in. It is absolutely fabulous to see that
24 people are training their kids to take over businesses in
25 the state of California.

1 And then yesterday I, too, attended the
2 groundbreaking ceremony with all of the Board with the
3 Edco and the groundbreaking for SANCO.

4 And I went to the Governor's Women's Conference.
5 They put me out.

6 That's my report.

7 CHAIRPERSON MARIN: Mr. Petersen.

8 BOARD MEMBER PETERSEN: Madam Chair, I've been
9 here six days. I've been to I don't know how many
10 Committee meetings, staff meetings, all of them.

11 By the way, hello to all old friends out there.
12 This is really kind of fun. This will be fun.

13 Anyway, and then I went to see Ed, old friend,
14 yesterday at Edco. So I'm worn out. And I just got here.

15 That's my report.

16 CHAIRPERSON MARIN: Well, you are so welcome.
17 And we're really, really happy. And I know that many of
18 our stakeholders are so happy that we now have five
19 members instead of four. So I don't know if and when the
20 next Board appointment will take place. But in the
21 meantime, I think we have a full complement, and we expect
22 great things. Having you join us now, we expect even
23 greater things.

24 BOARD MEMBER PETERSEN: Thank you, Madam Chair.

25 CHAIRPERSON MARIN: I would just like to share a

1 couple of things.

2 On October 19th, I went to the Binational Event
3 in Tijuana to discuss border issues, economic development,
4 education, air and water quality, and waste tires.

5 On October 24th, I actually ended up speaking to
6 some little children about everything that I do in the
7 city of Downey.

8 On October 27th, I along with my colleagues went
9 to the California Governor's First Lady's Conference on
10 Women and Families. I will just tell you this. It was a
11 very uplifting experience for all of us. For some of us
12 it was more than others. But it was really a magnificent
13 event.

14 On October 27th, on that day, let me just share
15 this with you, because I think it's so fascinating. We
16 had -- I think the numbers are going to come close to
17 90 percent recycling that took place that day. Coming
18 from the year before where there was really no recycling
19 effort during that conference. And when all of us at the
20 Board attended that conference a year ago, the first
21 question that struck all of us is, where is the recycling
22 taking place? There wasn't. And this year to achieve
23 upwards of or close to 90 percent recycling is just
24 unbelievably amazing. And I want to thank Pat and Phil
25 and your entire staff. I do want to give them an

1 applause.

2 (Applause)

3 CHAIRPERSON MARIN: It was really, really
4 magnificent. Where this leads us is, you know, we can now
5 tell people at any conference, your conference can also be
6 green. If we could do it with 12,000 people in one day
7 and we were successful at it, there is no reason why other
8 conferences cannot be green. And so the most important
9 thing that we learned is that we were able to make -- the
10 conference was able to make decisions from the get-go.
11 And this was a priority. It was a priority for the First
12 Lady. It was a priority for the Governor. They made that
13 very, very clear.

14 So every decision that was being made was made
15 with a thought that we needed to recycle as much as we
16 could. And so we are very delighted. I think we learned
17 a lot of things. The most important thing is that when
18 you make it a priority and every single decision that
19 comes after that then relates to recycling. It's awesome.
20 Thank you again.

21 I participated with staff for the Halloween
22 Masquerade Day. I will tell you all, I was the Queen of
23 Trash for that day. I had my beautiful cape, trash bag.
24 My friends from the trash bag industry will like that.
25 And I wore my tiara. Thank you. That was very, very

1 nice. Jennine Harris and Jeannine did a great job. So
2 thank you all for that.

3 And then we went to the RAC-N-Roll Tour. We said
4 that.

5 And also I want to share this with my Board
6 members and everybody else. Last Saturday, I attended a
7 collection of oil, used motor oil, in Huntington Park.
8 I'm so proud of that city. I was the mayor of that city.
9 But they came up with this incredible poster of this
10 wonderful little girl stepping into a can of oil. I think
11 it's so remarkable what they did. It's really striking.
12 Anyways, and they did this as well, which people are going
13 to be able to -- it was amazing what they did.

14 Anyways, and then yesterday I was with everybody
15 at Edco/SANCO. This is going to be the newest C&D
16 facility in San Diego County. I'm very, very excited
17 about having that infrastructure set for the state of
18 California, because developers and people that are
19 remodeling their homes and so forth, we didn't really have
20 a place where they can take all of their construction and
21 demolition materials. So now they will have one if and
22 when this gets approved. Okay. Enough of all of that.

23 The next thing that I'm going to do, as some of
24 you know, if you were watching the news today, everybody
25 is talking about trash and recycling day. And that is

1 because today is America Recycles Day. And this entire
2 week you're going to see a lot of activity, a lot of news
3 items, and so forth. The Governor himself has proclaimed
4 today and the week. And so if I may with your indulgence,
5 I'm going to read the little proclamation the Governor of
6 the state has had.

7 He says, "Each year California recycles 35.8
8 million tons of used paper, plastic, metal,
9 glass, food, yards trimming, construction and
10 demolition debris, and other materials.
11 Annually, recycling saves enough energy to power
12 1.4 million California homes. It can save up to
13 14 million trees, while reducing greenhouse
14 emissions that harm our atmosphere. Recycling is
15 an effective and practical way to help our
16 environment and conserve our natural resources by
17 reducing the amount of waste we create.

18 "There are many opportunities we have to help
19 our environment by promoting the habit of
20 recycling in California. I encourage residents
21 of our golden state to join the hundreds of
22 businesses, government agencies, and eight
23 organizations who are celebrating America
24 Recycles Day. We all can pledge to do our part
25 to reduce what we use, reuse what we can, and

1 recycle whatever and whenever possible.

2 "Now, therefore, Governor Schwarzenegger
3 of the State of California does hereby proclaim
4 November 15th as America Recycles Day."

5 And you know what? I think I'm going to give
6 this to Mr. Recycling.

7 (Applause)

8 CHAIRPERSON MARIN: Mr. Leary, your report.
9 Should I do that first? Or there's one more item that
10 it's actually -- how do you call it? It's a sweet sour --
11 bittersweet. Sweet and sour and bitter, how's that?

12 You should know, I change the sayings around.
13 But everybody knows exactly what I'm saying. I cross my
14 I's and dot my T's really nicely.

15 BOARD MEMBER WASHINGTON: She also gives frogs
16 three legs and stuff like that. Don't worry about it.

17 CHAIRPERSON MARIN: But everybody understands
18 what I'm saying.

19 Anyways, this is a bittersweet day for all of us,
20 because today happens to be the last Board meeting, that a
21 very fine individual will be his last Board meeting. And
22 that's Pat Schiavo. You know, we don't want him to leave.
23 He thinks he's leaving. And so it's difficult for us to
24 say goodbye to somebody who has made such a difference in
25 the quality of life of Californians. But as he must, he

1 will go.

2 So we have a little proclamation for you, Mr.
3 Schiavo. And I'd like to read it for everybody.

4 It says, "Whereas, proper resource management
5 is essential to California's continued economic
6 health, environment stability, and public safety;
7 and

8 "Whereas, the Integrated Waste Management Act
9 of 1989 requires local agencies to develop and
10 implement programs to divert usable resources
11 away from landfills and encourage the formation
12 of regional waste management programs; and

13 "Whereas, Patrick Schiavo started his career
14 in state service in 1973 as a shirtless warehouse
15 worker hefting boxes high and far. His tool kit
16 consisting of rubber bands, paper clips, and a
17 stapler; and

18 "Whereas, in continued State service since
19 1973, Pat has been employed by the Department of
20 General Services, the Department of Food and
21 Agriculture, the State Solid Waste Management
22 Board, Department of Social Services, the
23 Department of Conservation, and finally the
24 California Integrated Waste Management Board,
25 coming to the Board in July of 1991; and

1 "Whereas, Pat's professional talent and
2 personal skills -- along with a large dose of
3 good humor -- have allowed him to outlast 19
4 Board members and rise to his current Career
5 Ending Assignment CEA as Deputy Director for
6 Diversion, Planning, and Local Assistance, in
7 which he has built himself a new tool kit that
8 includes adjustment factors; time and motion,
9 costs, and waste characterization studies; and
10 honed his impressive skills at MRFing and
11 dumpster diving; and

12 "Whereas, Pat's contributions in no small way
13 ensured that local jurisdictions understood and
14 ultimately met the initial goal of reducing waste
15 by 25 percent in 1995, and laid the foundation
16 for reaching and maintaining the 50 percent
17 diversion goal; and

18 "Whereas, pat's selfless attention to the
19 special needs of all jurisdictions -- great and
20 small -- has been exemplified by his willingness
21 to travel far and wide and with great frequency
22 to such out-of-the-way places as Indian Wells,
23 Hearst Castle, and Monterey; and

24 "Whereas, Pat was instrumental in improving
25 the working relationships among Board staff,

1 local government, solid waste industry, and the
2 environmental community by bridging conflicting
3 viewpoints to achieve positive and common sense
4 outcomes.

5 "And, whereas, Pat has worked tirelessly and
6 always with humor on improving and streamlining
7 Board processes, data management systems, and
8 technical assistance to local jurisdictions; and

9 "Whereas, after more than 32 years of service
10 to the State of California, Pat is retiring on
11 December 30th, 2005;

12 "Now, therefore, be it resolved, that the
13 Members of the California Integrated Waste
14 Management Board commend Pat Schiavo for his
15 outstanding work, his dedication to developing
16 California's integrated waste management system,
17 his commitment and dedication for advancing the
18 goals and policies of the Board, and wish him
19 well in his retirement and all future endeavors."

20 Signed by all six of us.

21 (Applause)

22 DEPUTY DIRECTOR SCHIAVO: I feel old all of a
23 sudden. Nineteen Board members, but these guys beat me
24 out, I guess.

25 I just appreciate everybody. It's been great.

1 Just really enjoyed all the relationships I've made with
2 people. Hopefully, they'll last. They just won't be day
3 to day with the people I work with, which I'll miss most.
4 I don't know what to say. I'm in shock.

5 BOARD MEMBER MULÉ: Say you're not leaving.

6 DEPUTY DIRECTOR SCHIAVO: Go out on a high note,
7 I guess. Tomorrow is another day. Who knows.

8 Just thanks to everybody. It's been great. I've
9 really enjoyed myself, otherwise I wouldn't continue doing
10 it. So thank you.

11 (Applause)

12 CHAIRPERSON MARIN: Okay. With that, tears in
13 our eyes, Mr. Mark Leary.

14 EXECUTIVE DIRECTOR LEARY: Good morning, members.
15 Madam Chair, thank you. And good morning, members.

16 First of all, on behalf of the 430 passionate
17 true believers that work here at the Integrated Waste
18 Management Board, I want to welcome Gary Petersen. And we
19 look forward to working with you. Your enthusiasm and
20 your energy is already proving to be kind of contagious.
21 So it's a very exciting term ahead.

22 On the business end of things, I have to begin
23 with an emergency waiver concerning the Burbank Landfill
24 Number 3. The issuance of that waiver occurred on October
25 26th, 2005, of the L.A. County Authority Enforcement

1 Agency, City of Burbank. This waiver was granted by our
2 LEA to address debris related to the harbor wildfire which
3 occurred on September 29th, 2005, in the hills north of
4 Burbank and an associated landslide that occurred on
5 October 17th and 18th in that city.

6 The emergency waiver is for Burbank Landfill
7 Number 3. It extends the landfill's operating hours from
8 7:00 a.m. to 6:00 p.m. Monday through Sunday seven days a
9 week. The current hours for waste receipt are 8:00 to
10 4:00 Monday through Friday. The grant of the emergency
11 waiver is for 120 days.

12 With respect to division, clean loads of green
13 waste and wood waste from the disaster will be placed in
14 the green waste pile for diversion by the Burbank Green
15 Waste Transfer Operation. The majority of the material
16 from the debris cleanup is expected to be soil and rock,
17 which will be stored on site at the landfill and used for
18 soil cover.

19 On November 2nd, the plastic bag industry and
20 grocers signed an ambitious recycling pact with the City
21 of San Francisco, averting which would have been the first
22 fee on retail shopping bags in the United States. The
23 City had proposed a 17 cent per bag fee to reduce
24 consumption and to cover the environmental management cost
25 for bags. Instead, the agreement requires grocers and the

1 bag industry to cut bag use in the cities food marts
2 approximately 20 percent by the year 2006. Specifically,
3 the deal calls for grocers to cut bag use by 10 million
4 sacks and institute broader recycling programs in stores
5 and requires them to spend \$10,000 on public a education
6 campaign.

7 The City for its part agrees not to pursue a bag
8 fee through 2006 while the industry program gets underway.
9 Instead, it will consider introducing curbside recycling
10 for bags, which we believe is one of the first in the
11 state and country also. The agreement will be policed by
12 the City's Department of the Environment, which will
13 collect figures on bag use from the stores.

14 I wanted to also give you a brief update on the
15 status of the Board's contract with Ogilvy Public
16 Relations and the work they're doing to assist us and
17 develop our market and increase the use of tire derived
18 products, recycled aggregate and compost and mulch for the
19 local government.

20 At this point in time, our contractor is
21 conducting the research and data gathering task itemized
22 in the Scope of Work approved by the Board. Qualitative
23 opinion research is underway by Charleton Research with
24 in-depth one-on-one interviews with 35 local government
25 decision makers. This portion of the research should be

1 completed in next couple weeks. Charleton will follow
2 that up with one-on-one interviews with a phone survey
3 planned for 300 interviews to obtain quantitative
4 information. The opinion research will assist Ogilvy in
5 developing marketing materials, the key on specific
6 concerns that will influence local officials to adopt more
7 aggressive recycled materials procurement practices.

8 Staff from Ogilvy Public Relations is also
9 contacting local officials and jurisdictions identified by
10 Board staff to identify specific plans and projects where
11 recycled content materials could be used, and to obtain
12 baseline information on current use by these
13 jurisdictions. We will be presenting a more detailed
14 discussion on this project at the Board's December meeting
15 in Sacramento.

16 And then finally, Madam Chair, I want to offer my
17 own personal congratulations to Pat Schiavo. I had the
18 rare and honor of working for Pat and alongside Pat and
19 ultimately as the Executive Director. And on behalf of
20 myself, all the Exec staff, and the whole Board
21 organization, we want to acknowledge there's not a finer
22 human being in the world to work for.

23 With that, Madam Chair, I'll conclude my report.

24 CHAIRPERSON MARIN: Thank you, Mr. Leary.

25 Okay. Next item we have Mr. Elmer Heap that is

1 going to come in and welcome us to his building and then
2 tell us a little bit of what's going on in San Diego.

3 (Thereupon an overhead presentation was
4 presented as follows.)

5 MR. HEAP: Thank you, Chair Marin and Board
6 members. Welcome, on behalf of the City of San Diego.
7 Welcome to this great city and this beautiful city. And
8 welcome to the Environmental Services Department Building,
9 the green building Ridgehaven.

10 I want you to know I worked downtown for 16
11 years, and I'm so happy to be out here in this building
12 for many reasons. But I'm very happy to be in this
13 building. And one of the great -- this is such a
14 beautiful building and a great place to work. And also
15 there's a benefit. In my office, I can see the practice
16 field and San Diego Chargers and see them practice. So
17 Coach Marty Schottenheimer and I constantly are
18 communicating about things.

19 But I want you to know how grateful we are to
20 have you here with us today and tomorrow. And let me
21 share a couple thoughts with you about this department.
22 Before I give you an overview of our department and the
23 current issues, let me just make a comment about the
24 attitude of this department as it relates to these times
25 that we are in.

1 I know you follow what's happened in the City of
2 San Diego from a distance. Some of you are here locally
3 and seeing what's happened in the City of San Diego.
4 These are historical times as it relates to the challenges
5 that we face. And there's a myriad of reasons why that's
6 happened. And it's a very difficult place to work right
7 now. Let's just put it bluntly. When you see a Mayor
8 resign. You see investigations going on. You see the
9 District Attorney's Office bring criminal charges against
10 city employees. When you see an audit that we can't get
11 completed to certify our financial statements and we can't
12 issue bonds, we can go on and on and on. We have Council
13 members that have been convicted.

14 This department has taken this attitude that we
15 have got to accomplish great things in difficult times,
16 because that's where we're at. And this department, I
17 think as you see this overview and see the things we've
18 tried to accomplish in these times, I think this
19 department and its people deserve to be recognized.

20 I truly believe from my perspective sometimes in
21 these difficult times, great things can be accomplished
22 because of the times. And so we all need to acknowledge
23 and understand this great city, which I love with all my
24 heart, has become my home and the home of my family, that
25 we will do all we can to serve this community in difficult

1 times and help this city get to where it needs to be.

2 So in giving an overview of this department, we
3 start with --

4 --o0o--

5 MR. HEAP: -- our mission statement. We provide
6 environmental services that sustain and improve the
7 quality of life in San Diego. And to put it in a
8 nutshell, I believe this department is driven by three
9 things. One, from a fiscal standpoint that whatever we're
10 asked to do, we are fiscally responsible for the moneys we
11 have that enable us to provide the services that we need
12 to provide. Second, and from an environmental standpoint,
13 we're driven to do the right thing for the environment.
14 And, three, we're going to do all we can to serve the
15 citizens for which we have been asked to serve.

16 --o0o--

17 MR. HEAP: One of our first divisions we'll talk
18 about this morning is our Waste Reduction and Enforcement
19 Division. And as you can see here, this division covers a
20 myriad of things. The interesting thing to note and I
21 wanted to point out, you've probably seen this, is you see
22 the whole state and the municipalities in the state and
23 public agencies recycling marketing generate \$3.8 million
24 for our recyclable materials for which we have a
25 public/private partnership generated these kinds of

1 revenues for the City of San Diego in this last fiscal
2 year. Those moneys go into our recycling fund that enable
3 us, along with other revenue streams, to provide citywide
4 curbside recycling, automated recycling services for the
5 city. We've never achieved that level of revenues.
6 That's the highest level of revenues we've ever achieved.

7 The greenery marketing -- I want to point this
8 out. One of the things we do at Miramar Landfill, the
9 landfill we operate, is we have a great operation of
10 generating some wonderful compost and mulch, some of which
11 we give back to the community free of charge, some of
12 which we sell. That \$250,000 annual revenue, that's going
13 to continue to go up. We have continued to expand our
14 greenery operation. We love it. We think it's the right
15 thing to do with greenery material. We think that's the
16 right thing to do from an environmental standpoint. We're
17 going to see the revenues in that area continue to go up.

18 --o0o--

19 MR. HEAP: The next thing I want to point out is
20 that obviously this is the division that helps us to
21 comply with AB 939. I want to comment about AB 939
22 compliance, because right now the City of San Diego is not
23 where it needs to be as it relates to compliance. There's
24 things going on as it relates to a baseline year study
25 that we're doing and some other things that are happening

1 that we'll be able to achieve over 50 percent.

2 But I can tell you internally, as we work with
3 the Mayor and City Council, that 50 percent is just a
4 number, that we have to go way beyond the 50 percent. We
5 are going to be doing things -- and I'll talk about one of
6 the things we're doing on this slide -- that helps us to
7 achieve great things. We look at Miramar Landfill as a
8 precious asset. It's a precious asset in the City of
9 San Diego. I joke with our Council it's one of our crown
10 jewels, and it is. It really is. It's a remarkable,
11 remarkable facility. It's a remarkable asset for the City
12 of San Diego. And we have to use it judiciously and
13 appropriately. We need to make sure whatever is being
14 buried is what needs to be buried and should be buried.

15 With that said, that drives us. That has got to
16 drive us to make sure that we are achieving as much
17 diversion as we possibly can, and we're recycling as much
18 as we possibly can. That's our theme. That's our focus.
19 That's our effort. We have great support right now
20 downtown for us to be able to accomplish great things, I
21 think, which leads me to the next point.

22 I want to touch on the C&D ordinance/facility.
23 We were in front of the Council on September 18th talking
24 about construction and demolition ordinance, for which we
25 were able to get passed by the Council. We had a great

1 discussion with the Mayor, Council, actually with our
2 Acting Mayor, Mayor Atkins; and our Council members. And
3 it was just a great discussion. All the stakeholders were
4 there. We had this dynamic discussion. We were all
5 advocates for the positions we wanted to take. And at the
6 end of the day, the ordinance passed.

7 As a result of that ordinance passing, we had the
8 presence of the Integrated Waste Management Board that was
9 there supporting us. Other cities in this great county of
10 ours have followed the lead of the City of San Diego in
11 passing their own C&D ordinances.

12 What's interesting about this ordinance is it's
13 tied to the facility. We are so grateful for Edco/SANCO.
14 What they've done down at Lemon Grove, we're following
15 their example. We're siting our own C&D facility, our
16 mixed C&D facility out at Miramar Landfill. It's going to
17 be up and running in June and July of next year. It's
18 going to be a beautiful thing. And it's going to help us.

19 What's interesting is this ordinance is really
20 going to kick in in a significant way once that facility
21 is up and running. And so there's a great energy
22 obviously to get that facility up and running, because we
23 have way too much construction and demolition being buried
24 in the landfill. There's way too much. It's just
25 ridiculous.

1 --o0o--

2 MR. HEAP: Collection services, going on to the
3 next slide.

4 --o0o--

5 MR. HEAP: One thing I wanted to point out. I
6 love our collection services division. It's great to be
7 out there early in morning when they're getting ready to
8 go to work. It's a great diverse group of people, men and
9 women. This coming together early in the morning ready to
10 go out and attack the day. I've been on the back of a
11 truck with our great people doing manual collection on our
12 greens, which we need to do automated.

13 But let me focus on rerouting and greenery
14 expansion. On June 7th, 2004, we rerouted the entire
15 city. Through a GIS, GPS system, we have this remarkable
16 technology section within our department, we were able to
17 reroute the entire city. And we promised the Mayor and
18 Council through that rerouting we'd be able to use less
19 trucks and less people to provide the same services and
20 save the General Fund in the first fiscal year \$680,000.
21 We saved over \$700,000 in the General Fund the first year.

22 The General Fund has to provide the service. We
23 can't impose a trash fee in the City of San Diego because
24 of the 1919 People's Order. So this burden falls upon the
25 General Fund. So we saved that much money the first

1 fiscal year. In the fiscal year we're in right now, we
2 promised \$900,000 of General Fund savings, we're going to
3 get that. I'm hoping to get a million. Every year after
4 that, we're going to get a million dollars of savings in
5 the General Fund as a result of rerouting.

6 We're constantly looking at it, we're constantly
7 reworking it. Because of rerouting, our misstops are way
8 down to historical levels. Our overtime is way down. So,
9 one, we save the General Fund money, which in these times
10 is very important. Two, we did the right thing for the
11 environment. Why? Because we have our trucks out there
12 traveling less miles. And some of the resources we freed
13 up, we were able to throw on the greenery side, so we're
14 able to expand our greenery collection from 150,000 homes
15 in June '04 to over 200,000 homes today.

16 So it's a good thing when you can go downtown and
17 say we're going to save the General Fund money. We're
18 going to do what's right for the environment. And we're
19 going to expand services.

20 And the union leadership, we're shoulder to
21 shoulder. We were holding hands, singing songs. It was a
22 great experience.

23 And the bottom line is that talking reality, this
24 is one of the greatest things that's happened in the City
25 of San Diego in the last 18 months. Because not a whole

1 lot has happened that's noteworthy. But that is one of
2 the programs that's a great program. And we're not
3 satisfied. We are constantly seeing what we can do to
4 make sure we're getting efficiencies that we need. And we
5 need to go citywide greenery. So we need to include
6 another 40-, 50,000 homes before we achieve that. And we
7 won't rest until we do that.

8 --o0o--

9 --o0o--

10 MR. HEAP: Our refuse disposal division, the one
11 thing I wanted to point out -- I love this landfill. When
12 you want to have a great day, just go out to the landfill.
13 The ISO 14001 certified landfill, which is as you know,
14 basically means we're operating this landfill in a way
15 that's very sensitive to the environment. Every year
16 we're audited. We maintained that certification since
17 June of 2002. We're one of the first certified landfills
18 in this entire country, in this entire world. And it's a
19 remarkable landfill. We care about how we operate. We
20 want to operate it the right way as it relates to the
21 environment.

22 --o0o--

23 MR. HEAP: Our resource management division.

24 --o0o--

25 MR. HEAP: There's a lot of things we do within

1 this division. But let me make a special note of our
2 Binational Program. We do a lot with the City of Tijuana,
3 Mexicali, with a lot of cities, and Baja. We love to
4 partner with them on solid waste issues.

5 A couple years ago, we helped the City of Tijuana
6 site a landfill and operate a landfill, a state-of-the-art
7 landfill. This past year as a department we received some
8 grant monies from US EID which is a program within the
9 federal/state department. We spent four weeks in India.
10 We partnered with a city in India to help them to site the
11 first landfill in the country of India and to help them to
12 close a dump site. They don't have landfills in India.
13 There's not one landfill in India. This city called
14 Hyderabad wants to be the first city in the country of
15 India to site a landfill.

16 We were part of a team that consisted of the
17 World Bank, U.S. EPA, ICKLY (phonetic), the consultant
18 group in India, and ourselves. We were just one of many.
19 And it was a wonderful experience to be a part of a team
20 to help a city that wants to do so much to serve its
21 citizens in the managing of solid waste.

22 So we love not only partnering with the great
23 cities just to the south of us, but we've had great
24 opportunities to be able to work with other cities, not
25 only in this country, but throughout the world.

1 Next.

2 --o0o--

3 MR. HEAP: We have our Energy Division which
4 accomplishes great things. We partner closely with
5 downtown with many different projects. We hope to help
6 the city be prepared for any kind of potential energy
7 crisis. We're encouraging looking at alternative ways
8 which we can find energy and use energy. We have a great
9 leader of that division who accomplishes great things with
10 not very many resources. So we're very proud of this
11 division.

12 And finally we have a division of the --

13 --o0o--

14 MR. HEAP: -- Office of Environmental Production
15 and Sustainability.

16 --o0o--

17 MR. HEAP: Let me just make a special note. You
18 can see all the things we do within that division. But a
19 special note of our burn ash site cleanup, because I know
20 none of you great Board members were a part of this
21 effort. But a few years ago, I know some of the staff
22 were here that are this morning were a part of this
23 effort. This great Board was a great partner with us
24 along with U.S. EPA to help us to clean up some burn ash
25 sites that were located in a residential community here in

1 the City of San Diego, in a community that has many
2 challenges but has great people.

3 And so they bought homes, and not knowing at all
4 that underneath their homes these homes were built over an
5 old burn site. And from a legal standpoint, it wasn't
6 clear, for example, whether or not the City operated that
7 burn site or not. We put all the legal issues aside. And
8 we said, what's the right thing to do? The right thing
9 was to do what you need to do to protect that community
10 from any kind of public health risk. So with matching
11 grant moneys from this Board, with the assistance of U.S.
12 EPA from great support downtown, we were able to go in and
13 clean up these sites to be able to make it so they're safe
14 for the community. We bought the homes of those people
15 who wanted to sell their homes. We were able to
16 compensate those people who wanted to stay in their homes
17 based upon the diminution of value that occurred based
18 upon the presence of the burn ash.

19 It was a remarkable experience. That community
20 was benefited by it. Those citizens benefited by it. And
21 this Board -- this Board was remarkable in helping this
22 City to accomplish great things. So I wanted to
23 acknowledge the Board and its staff for all that they did
24 to help the City. This was probably about four or five
25 years ago. But for me, as I look back on my City

1 experience, this was one of my highlights of my City
2 experience, what we were able to accomplish by assisting
3 that great community.

4 Finally, want to just talk briefly about some of
5 our current issues and challenges that we have and what
6 we're looking at.

7 --o0o--

8 MR. HEAP: From the landfill standpoint, the
9 Miramar Landfill we anticipate if nothing changes as far
10 as the flow of waste, we'll close in 2012. That's not
11 very far. And so right now we're doing a lot of things.
12 But let's talk first about obviously we have a C&D
13 facility that's going to be up and running that is going
14 to divert waste. We're going to be doing other things
15 that are going to increase the recycling effort that we
16 believe will obviously lessen the amount of waste going
17 into Miramar.

18 What's interesting about this whole issue is that
19 we operate the landfill. So on the one hand, you want to
20 divert as much material as you can from the landfill that
21 shouldn't be there. But at the same time, you need to
22 have enough coming in so you can sustain your system. So
23 what's interesting is we were looking at the construction
24 and demolition facility, and it's going to take 200,000
25 tons out of the waste stream. And that has about a \$3.5

1 million impact to our disposal fund. Is it the right
2 thing to do? Absolutely. We're going to do it and make
3 it work.

4 But what's interesting is as you look at the
5 landfill, because we're the operators of it, we have to,
6 one, make sure the right material is going in, but at the
7 same time, we need a sufficient amount of materials to
8 sustain our system.

9 The height increase deals with -- we're meeting
10 with the Marines. We have for the last several months.
11 It looks like we have a great opportunity to increase the
12 height at Miramar 20 feet that will give us an additional
13 four years of landfill life. With that increase along
14 with other things we're doing, we're hoping to get Miramar
15 at least to 2020. We want to keep that facility up and
16 running as long as we possibly can.

17 The next is our recycling permits at West
18 Miramar. West Miramar is the active phase we are in at
19 Miramar. It's our last phase of Miramar. And obviously
20 we've talked a little bit about the C&D facility and the
21 development. We are going to be in front of Council on
22 November 28th talking to them about who our partner is
23 going to be with that facility, who's going to be
24 operating it. We're going to get authorization from them
25 to be able to so forward with our operator of that

1 facility.

2 Then we want to expand our recycling efforts in
3 our greenery area. And so that's what -- we're going to
4 acquire more property or be able to use more property to
5 help us to build that program even larger.

6 And then come April or May of next year, we're
7 going to go forward with the Council for a mandatory
8 recycling ordinance, which at least from my perspective is
9 long overdue.

10 That's where we're at. Again, we've taken the
11 approach that we're going to keep going. We're going to
12 keep bringing things downtown. We're going to keep
13 telling them things they need to be doing. They have
14 really been supportive of what we're trying to do and what
15 we're trying to accomplish. But I just want you to know
16 in trying to represent the Environmental Services
17 Department as best we can that we are committed to doing
18 all that we can to serve this community and doing what's
19 right for the environment and --

20 --o0o--

21 MR. HEAP: -- doing all that we can to make sure
22 we stay on the cutting edge, that we enjoy the journey,
23 but we will never rest in trying to accomplish great
24 things in trying to be as efficient as we can and trying
25 to be as good as we can in all we've been asked to do.

1 CHAIRPERSON MARIN: Thank you, Mr. Heap.

2 (Applause)

3 CHAIRPERSON MARIN: I always get confused. Is
4 Miramar the one that has the Cheryl Peace wardrobe?

5 BOARD MEMBER PEACE: That's okay.

6 CHAIRPERSON MARIN: She's very famous. She has a
7 whole line of clothes that people can recycle. Anyways,
8 that ought to be something that you want to talk -- this
9 is your backyard, Ms. Peace.

10 Anyways, thank you, Mr. Heap. Thank you so very
11 much for that wonderful presentation. We're very happy,
12 and we join you in the relief that now you have a Mayor
13 and some of these difficult times are behind you. But we
14 congratulate you. We really congratulate you for
15 everything you have done. We cheer you on in the things
16 you want to accomplish. And we wish you a lot of luck.
17 And please give your employees our warm regards for
18 everything they're doing. This is a grateful state. This
19 is a grateful Board for everything that you're doing.
20 Thank you. Okay.

21 Well, that leads us to public comment. At this
22 point in time, if anybody wishes to address the Board on
23 issues not on the agenda, this would be the time to do it.

24 Seeing none, I'm going to call upon Lisa Wood
25 from the City of San Diego. She wants to say something

1 about Item Number 13. Item 13 is on the -- it was just a
2 Committee item, and therefore we're not really going to
3 have it before us. So is Lisa here? She's not here.
4 Okay. Well, maybe when she comes back we'll let her know.

5 And let me call then -- is Mr. David Pelser here?
6 Yeah. Thank you. Please join us, because this item is
7 also on the consent calendar. And when we take the
8 consent calendar, we just vote on that. So this would be
9 the perfect time to address us on that issue.

10 MR. PELSER: Thank you. There was some confusion
11 in my office -- my name is David Pelser representing
12 Sacramento County as the Director of the Department of
13 Waste Management and Recycling. There was some confusion
14 on the part of my staff as to whether this item would
15 remain on consent. If it is still on the consent
16 calendar, I'm here to show support and I don't need to
17 take up any more of your time.

18 CHAIRPERSON MARIN: I have not heard of anybody
19 willing to pull the item. I know we had received some
20 letters, actually one particular letter -- you were going
21 to pull it?

22 BOARD MEMBER PEACE: Yes.

23 CHAIRPERSON MARIN: She was going to pull it. If
24 we're going to pull it, we will address it at that point
25 in time. Thank you very much for being here today.

1 Okay. Is Lisa Wood back? No.

2 With that, that takes us to the agenda, to the
3 actual agenda of the Board. We will first deal with
4 consent calendar. And Item Number 4, 5, 7, 12 Revised are
5 on the consent calendar. Is there a motion to approve the
6 consent calendar?

7 BOARD MEMBER WASHINGTON: Madam Chair, I'd like
8 to move the consent calendar.

9 BOARD MEMBER MULÉ: Second.

10 CHAIRPERSON MARIN: Moved and seconded. Call the
11 roll, please.

12 EXECUTIVE ASSISTANT BAKULICH: Mulé?

13 BOARD MEMBER MULÉ: Aye.

14 EXECUTIVE ASSISTANT BAKULICH: Peace?

15 BOARD MEMBER PEACE: Aye.

16 EXECUTIVE ASSISTANT BAKULICH: Petersen?

17 BOARD MEMBER PETERSEN: Aye.

18 EXECUTIVE ASSISTANT BAKULICH: Washington?

19 BOARD MEMBER WASHINGTON: Aye.

20 EXECUTIVE ASSISTANT BAKULICH: Marin?

21 CHAIRPERSON MARIN: Aye.

22 We have Items 3, 8, and 9 on the fiscal consent.
23 There will be a minor presentation on these items. They
24 were dealt with in their respective Committees. But
25 because there is a fiscal amount to them, we need to have

1 an actual vote on them.

2 Item 13 was heard in Committee only.

3 And Items Number 1 Revised, 2 Revised, 6, 10, 14
4 will be heard by the full Board.

5 Okay. Then let's start with the first item,
6 which was the Consideration and Request by the Plastic
7 Trash Bag Manufacturers for Exemption. And, Michael, you
8 are going to make that presentation.

9 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
10 For the record, my name is Michael Leaon. I supervise the
11 Plastics Technology Section at the Integrated Waste
12 Management Board. I'd like to say good morning, Madam
13 Chair, Board members, and special welcome to Board Member
14 Petersen. We have an interesting item right off the bat
15 for you.

16 CHAIRPERSON MARIN: Can everybody hear him? Some
17 people are not able to hear you.

18 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON: Is
19 that better? I will just hold onto the microphone I
20 guess.

21 CHAIRPERSON MARIN: Thank you.

22 (Thereupon an overhead presentation was
23 presented as follows.)

24 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
25 Well, this item does pertain to requests for exemption by

1 Glad manufacturing and Pactiv companies to the minimum
2 content requirement of the trash bag law.

3 --o0o--

4 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:

5 The law requires that a trash bag manufacturer selling
6 regulated trash bags in California needs a 10 percent
7 minimum content requirement in regulated trash bags or a
8 30 percent minimum recycled content in all plastic
9 products. The law traditionally provides an exemption for
10 manufacturers which can demonstrate there was an
11 insufficient quality and/or quantity of post-consumer
12 material available to them during the reporting period,
13 which in this case is 2004.

14 --o0o--

15 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:

16 Compliance is demonstrated through annual Board
17 certifications. Compliant manufacturers are published on
18 the Board's website, and about 28 manufacturers that were
19 in compliance for 2004. Non-compliant manufacturers and
20 wholesalers are also published on the Board's website.
21 And these companies are prohibited -- and the penalty
22 under the law, the companies are prohibited from
23 contracting with the State with the provision of any good
24 or service.

25 --o0o--

1 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON: To
2 receive an exemption from the minimum content
3 requirements, manufacturers must demonstrate they made
4 reasonable efforts to obtain post-consumer material during
5 a reporting period. Some of the information they have to
6 document is their discussions with resin suppliers. The
7 specifications and test methods that they inform their
8 suppliers they would have to meet these specs and here are
9 the tests we're going to use to make sure your material
10 does meet our specs.

11 They're required to report on any independent
12 tests that have been done, any information they receive
13 from the resin supplier including material data sheets,
14 certification letter regarding the quality of the product,
15 or other documentation they may have received from the
16 supplier. And, additionally, the product manufacturer has
17 to provide an explanation for why each shipment of
18 post-consumer material was either rejected or reduced.

19 --o0o--

20 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON: A
21 little history on Glad and Pactiv. In 2004, Glad's
22 compliance strategy centered around reconfiguring their
23 manufacturing lines to make multi-layer bags, and the
24 inner layer of these bags was going to contain the
25 post-consumer content. Through the first half of 2004,

1 Glad was working with a post-consumer resin supplier and
2 testing that material. However, after that resin supplier
3 shut down their line for a period of 20 days, testing did
4 not resume after that period, and that was July of '04.
5 Consequently, Glad did not use any post-consumer material
6 in its regulated trash bags.

7 Regarding Pactiv, their strategy is they have the
8 capability of buying bailed bags and manufacturing their
9 own pellets using those bailed bags. Glad did purchase
10 130 tons of post-consumer material in '04. And overall
11 the minimum content in the regulated trash bags was 2.3
12 percent.

13 --o0o--

14 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:

15 The options available to the Board today are to:
16 Disapprove the exemption requests. This would be
17 appropriate if the Board determines that the manufacturers
18 did not make reasonable efforts to obtain post-consumer
19 material.

20 Conditionally approve the exemption requests.
21 This is an option that provides the Board with some
22 flexibility in going forward, and requires the
23 manufacturers to make certain commitments to the Board.

24 Option 3 would be to approve the exemption
25 requests. This would be appropriate if the Board

1 determines that the manufacturers did make reasonable
2 efforts in '04 to obtain PCM.

3 Option 4 would be to take no action. Under this
4 option, the manufacturers would be not compliant by
5 default. They haven't demonstrated compliance with
6 minimum requirements. If their exemption request is not
7 approved, then they fall into the non-compliant category.

8 Option 5 would be to provide other direction.

9 --o0o--

10 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:

11 This item was originally heard at the Board's August
12 meeting of 2004. At that time, staff was recommending
13 disapproval of the exemption requests. The item was not
14 acted upon at the August meeting and was then reconsidered
15 at the October Sustainability and Market Development
16 Committee meeting.

17 Staff's recommendation at that time was still to
18 disapprove the exemption requests. But at the Committee
19 meeting, staff did include the recommendation for
20 conditional approval. Again, the Board did not take
21 action at that time. And Board Chair and staff
22 subsequently met with company representatives on October
23 17th. And at that meeting, staff and the company
24 representatives negotiated essentially what conditions
25 these companies would be willing to agree to in order to

1 receive conditional approval. We agreed upon those
2 conditions.

3 --o0o--

4 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:

5 Which are that for '06 the companies will submit quarterly
6 reports to the Board. Staff will have the opportunity to
7 meet with the manufacturer representatives to discuss
8 those reports. This provides us opportunity to monitor
9 their progress in a proactive fashion. Also they will
10 submit a monthly report for this month and December for
11 the balance of '05, and they have agreed to continue to
12 work with Board staff to increase the collection of
13 plastic film through Board workshops and meetings.

14 --o0o--

15 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON: On
16 that basis, staff is recommending that the Board approve
17 the conditional exemption requests and adoption of
18 Resolution 2005-301 and 2005-302. That concludes my
19 presentation. I'd be happy to answer any questions you
20 might have.

21 CHAIRPERSON MARIN: Thank you, Michael.

22 This has been a very long and arduous and
23 tortuous process for all of us involved. And this is --
24 and I know we don't have any representatives here from
25 both companies. It has been -- oh, that's right. I'm so

1 sorry. Thank you for being here. It's been very, very
2 painful for everybody involved, and we believe that we
3 have now come to a consensus, if you will, of what the
4 reasonableness of our expectations and the agreement from
5 these corporations to -- I think there's very clear
6 recommendations for what it is that we expect them to do.

7 Where before there was a question as to whether
8 these efforts were reasonable or not, and the companies,
9 they tried to divine what it is we were going to say were,
10 in fact, reasonable efforts. I think that now with these
11 recommendations, it is much clearer as to what it is that
12 we expect them to do.

13 And so I would hope that we put this behind us
14 after the give and take that has taken place, and we move
15 forward in anticipation of them complying with the
16 requirements that have been set forth in this
17 recommendation. So I know it's been tortuous to say the
18 least for everybody involved, including our wonderful
19 staff.

20 Ms. Peace.

21 BOARD MEMBER PEACE: So here in this agenda item
22 you said Board staff is not convinced that Glad or Pactiv
23 have met the regulatory requirements to receive an
24 exemption for minimum content requirements of the law. So
25 you didn't learn any new facts in the October 17th

1 meeting --

2 CHAIRPERSON MARIN: We did.

3 BOARD MEMBER PEACE: -- that led you to change
4 your mind, give you any more facts that made you think
5 that -- that convinced you they had met the regulatory
6 requirements?

7 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
8 Looking strictly at the actions they took in 2004, there
9 was no new information provided. What was new, however,
10 was their willingness to commit to meeting the conditions
11 that we were asking for, which we had not had a previous
12 agreement from the companies that they would meet those
13 conditions.

14 BOARD MEMBER PEACE: How many years has this law
15 been in effect?

16 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
17 Since the early '90s. I first -- the Board first began
18 enforcing the law in '97.

19 BOARD MEMBER PEACE: What was the percent they
20 used in their bags?

21 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
22 They did not achieve any --

23 BOARD MEMBER PEACE: Zero.

24 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
25 Yes. For '04. They did not use any material, yes.

1 BOARD MEMBER PEACE: I have to say I don't
2 necessarily like this law. The purpose of the law is to
3 help keep plastic out of our landfills by expanding
4 markets. But from what I understand, it's hard to use
5 post-consumer material in the production of thin plastic
6 bags. The slight imperfection can cause manufacturing
7 problems. To use PCM, manufacturers might actually have
8 to make bags thicker in order to comply, which means that
9 more plastic is going to the landfill. And all that work
10 to put post-consumer material into a product that is
11 naturally headed for the landfill after its intended use
12 doesn't make a lot of sense to me. And I, like Chair
13 Marin has said before, could support legislation to amend
14 the requirements of the State's Plastic Trash Bag Law and
15 replace it with a more comprehensive approach to managing
16 plastic.

17 But with that said, I did not write this law.
18 None of us did, and we can't change it. Our job is to
19 uphold the law. Staff has said that Glad and Pactiv did
20 not make a reasonable effort to comply. The law says that
21 the Board, if the Board does not find that companies
22 claiming an exemption made a reasonable effort, then an
23 exemption cannot be granted. The law does not allow us to
24 invent revised exemption options or conditional approvals.
25 We must approve Option 1, no exemption for 2004.

1 I would strongly urge Glad and Pactiv to:
2 Provide monthly reports to the Board staff documenting any
3 attempts to source the use of post-consumer material; to
4 participate in quarterly meetings with Board staff to
5 ensure they are making reasonable efforts; and to
6 participate in meetings and workshops to develop
7 strategies to increase plastic from collection and
8 recycling. And maybe actually get some percentage of
9 post-consumer material in their bags if they want any
10 chance for an exemption in the future.

11 With that, anybody else want to say anything?

12 CHAIRPERSON MARIN: Well, you know, let me see.
13 I think that we could do all of that, Ms. Peace. There is
14 no question we could do that. But we also have to figure
15 out that, in fact, these people have tried. And that's
16 where the rubber meets the road. These corporations, it
17 was in their belief that they were doing everything that
18 they could to meet not just the letter of the law, but the
19 spirit of the law.

20 They felt that by doing what they were doing and
21 spending the -- I think one of them was almost a million
22 dollars trying to figure out a production way,
23 manufacturing way to actually get more post-consumer
24 material in it, that they were going even beyond what the
25 law required.

1 Now, it may be in your estimation that's not
2 enough. But when we're talking about production, I know a
3 little bit about production. Just a little bit. When you
4 are having any minor change in the production, any
5 material, it's going to have an effect on your production
6 capabilities. These people are producing millions of
7 gallons -- well, gallons of plastic. Any particular
8 change, if there is not a continuous source of material,
9 any change in the production becomes a quandary. And I
10 guess we could be very cavalier and say, well, you figure
11 it out and all of that regardless of how expensive it is.
12 We could do that.

13 But at the end of the day, what we're attempting
14 to do is have them meet the letter of the law and the
15 spirit of the law. That is where the problem lied in.
16 They felt that they were doing everything they could to do
17 that. And it wasn't until they came to us that said, no,
18 we don't agree that your efforts were sufficient. But
19 nobody told them they needed to do something extra or
20 different. That's the problem. That is a problem. Now,
21 if we impose this, now they have a very clear direction.
22 You will do this, this, and this.

23 Michael, can you go over what we agreed they
24 would do?

25 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:

1 For the conditional approval, that they will submit
2 quarterly reports. They will meet with staff to review
3 those reports. In those reports, there's a document of
4 what actions they are taking to source and use
5 post-consumer material in their regulated trash bags.

6 The problem we've had with these exemption
7 requests is they look at the previous calendar year. So
8 when we get the certification in, we're almost halfway
9 into the following year. And we've been in the middle
10 between what the manufacturer's reporting. And then we
11 follow up with the resin suppliers. We don't always hear
12 the same thing. So it's made it very difficult for staff
13 and the Board to really know were these efforts reasonable
14 and was there a sincere effort to actually use the
15 material in the trash bags. So I think this process will
16 help us get around that obstacle by improving
17 communication between the manufacturer and staff and the
18 resin supplier.

19 BOARD MEMBER PEACE: I think that's great for
20 2005-06 and beyond. But for 2004, it's kind of late for
21 that. And they haven't done what they were supposed to do
22 for 2004. And for how many years have they tried? For
23 how many years have they asked for an exemption?

24 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
25 Since 1999.

1 BOARD MEMBER PEACE: They asked for an exemption
2 every year. They should know. I'm sure you've met with
3 them over the years. They should know what they need to
4 do to prove they're making a good faith effort. They
5 should have some idea by now.

6 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
7 Yes. I would say that is the case. It is in regulation.

8 BOARD MEMBER PEACE: And we have other trash bag
9 companies that have actually complied with the law; is
10 that correct?

11 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
12 That is correct.

13 BOARD MEMBER PEACE: Some have made an effort to
14 comply.

15 CHAIRPERSON MARIN: The difference is these are
16 the major corporations, so when you're looking at a
17 percentage --

18 BOARD MEMBER PEACE: And they have zero. If they
19 even had 1 percent, I might feel a little sorry for them.
20 But they have zero.

21 CHAIRPERSON MARIN: Because you cannot -- the
22 whole thing is, is there going to be a significant amount
23 of material coming in to ensure the production of it? And
24 when they cannot have somebody that says yes, we will, in
25 fact, have x amount of pounds of material that will

1 constantly flow so you can produce all of this, even if
2 it's a small percentage. For a smaller company that
3 produces trash bags, it's a lot easier to secure a smaller
4 percentage of material. When you have millions of gallons
5 of these particular material, it's a little bit more
6 difficult for them to ensure the flow will be there.

7 You know, I think I don't agree. I mean, I think
8 that -- and we told them that, you know, the best thing
9 that they may be looking for is for the ability to change
10 the law. And they were going to do that, but somewhere,
11 somehow we led them to believe -- we, the Board, led them
12 to believe that that was not going to be necessary. And
13 so they did not seek that change in law based on some of
14 the direction somebody gave them. And it is now really
15 unfair for them not to have any other alternative when
16 they could have sought legislative relief. So in effect,
17 you know, we will be punishing them for something that we,
18 in fact, told them they didn't have to do. That seems to
19 be unfair.

20 BOARD MEMBER PEACE: On the other hand, we have
21 trash bag manufacturers that have complied, that have put
22 in the effort to comply and we're, to me, saying, like
23 we're punishing them for doing all the work.

24 CHAIRPERSON MARIN: You are suggesting they put
25 no effort at all, and that is not true.

1 BOARD MEMBER PEACE: The law says reasonable
2 effort. And our staff over the years has worked with
3 them, and they still came to the conclusion that they did
4 not make a reasonable effort. And the law does not allow
5 us, like I said, to invent revised exemption options.

6 CHAIRPERSON MARIN: That would be the opinion of
7 our staff. You know, when they came in and we talked
8 about it and they told us what they had done, it seemed to
9 me that their efforts were reasonable.

10 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
11 Madam Chair, if I can respond briefly. I think there is a
12 distinction between the effort they made in trying to
13 source material and the efforts they made in revising
14 their manufacturing process. They did do that. But where
15 we felt their efforts were lacking was in finding the
16 material, testing that material, and then using it in
17 their reconfigured line. There's an argument to be made
18 on both sides.

19 BOARD MEMBER WASHINGTON: Let me add, Madam
20 Chair, we also talking about a competitive process here.
21 And I don't think we should overlook that we're talking
22 about a competitive -- we had Bill Orr in my office with
23 those folks, and both conceded that, yes, it's very
24 difficult with Pactiv and Glad because they're considered
25 big corporations, that when you make the phone call to

1 say, "Can you provide me this material," they would tell
2 you, the Waste Board, "Sure, we can provide it." But
3 they'll tell the company, "No. We don't have enough for
4 you." I mean, we're talking about apples and oranges
5 here.

6 And in my good estimates, I believe they did make
7 an effort from what I've read and seen that they made a
8 very good effort to try to get this thing done. It just
9 had not happened for them. And staff only sends to the
10 Board a recommendation. We, the Board, determine what is
11 a good faith effort. And when I looked at this and sit
12 down with staff and talked to them, I do believe that
13 these two companies have made a good faith effort. I
14 really believe they have.

15 And I'm prepared to move these Resolutions with
16 Option 2, unless other Board members have something they
17 want to add. Madam Chair, I'd like to move adoption of
18 Resolution 2005-301 as well as 302, option 2.

19 CHAIRPERSON MARIN: Are those the numbers?

20 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:
21 2005-301 for Glad Manufacturing and 2005-302 for Pactiv
22 Corporation.

23 BOARD MEMBER MULÉ: I'll second that.

24 CHAIRPERSON MARIN: Before I call the roll,
25 actually, I think that we have somebody that wanted to

1 speak regarding that. And that's Mark Murray. If I may,
2 can we just hold off on the voting?

3 Mr. Mark Murray, Californians Against Waste.

4 MR. MURRAY: Madam Chair, Members, Mark Murray
5 with Californians Against Waste. I apologize for coming
6 in at the tail end of this, but I want to just make a
7 couple points on this. And partly as one of the authors
8 of this piece of legislation some ten years ago and note
9 that actually we didn't invent this. This actually was a
10 compromise between elements of the trash bag industry and
11 the environmental community and the private sector
12 recycling community. And at that time, the trash bag
13 industry, actually many elements of them, were eager to
14 use recycled plastic. In fact, thought it was going to
15 provide them with a competitive market advantage over
16 other trash bag manufacturers. So those manufacturers
17 actively supported that, pursued this legislation, and
18 that was what we had on the books. The marketplace
19 changed, and it became increasingly difficult for the
20 trash bag manufacturers to obtain that material.

21 Now, I would completely agree with Ms. Peace's
22 comments that some of the strict provisions of the statute
23 have then become obsolete. To me, that is the time then
24 for the manufacturers that were involved in crafting that
25 legislation to come together with the original sponsors of

1 that legislation and others and work out some kind of
2 agreement. I have been trying to work out that agreement
3 now for several years. I must tell you that we have put
4 several proposals on the table, and where we're at is that
5 the trash bag manufacturers are asking that we basically
6 leave them alone.

7 And so I'm torn here, because frankly I'm in
8 complete agreement with Ms. Peace's statements on this
9 issue. I don't believe that this industry is really
10 taking their responsibility seriously. They see there are
11 other end users out there that want to use this material,
12 and so they feel like they no longer have to do anything.

13 Your own waste characterization study notes there
14 are more than a million tons of film plastic in
15 California's waste stream. This is an industry that they
16 can't get enough of the film, because they are unwilling
17 to pay a price to pull it out of the waste stream. They
18 are unwilling to work with collectors to come up with
19 programs to pull this material out of the waste stream.

20 Now, up to this point, I've been very
21 appreciative of the staff's efforts and your efforts, in
22 terms of I think what's needed is to hold this industry's
23 feet to the fire. I think that there are multiple
24 different ways you could hold their feet to the fire. I
25 agree the answer is ultimately to pursue legislation that

1 creates alternative compliance options. And, you know, as
2 of mid-August I was working with this industry on actual
3 language to try to accomplish this. And they backed away
4 and said they weren't willing to do it they wanted to wait
5 another year.

6 I'm asking this Board to hold this industry's
7 feet to the fire. I think that can be accomplished both
8 by not granting them the exemption, or by being very
9 aggressive in holding them accountable for actual amounts
10 of material they arrange to be used. If they're not using
11 any, all the reporting in world doesn't do anything for
12 us. What we need them to do is either consume or arrange
13 to be consumed an amount of plastic film that is equal to
14 at least 10 percent of what they're generating. That's
15 the concept in the RPPC law. That's the concept in the
16 trash bag law. And I think that holding their feet to the
17 fire a little better than the proposal that's before you.
18 I would ask that you at this moment basically not grant
19 them the exemption from the trash bag requirements.

20 I'm not entirely certain as Ms. Peace has
21 suggested that you have the authority at this point to
22 come up with an alternative compliance that relies largely
23 on reporting and not on actually getting them to consume
24 something, getting them to consume post-consumer material.

25 CHAIRPERSON MARIN: Except for the fact that we

1 have, as I understand in their production of these
2 plastics, they are able actually to reuse some of what
3 would be considered waste.

4 MR. MURRAY: But that wouldn't be post-consumer.
5 Maybe I'm misunderstanding.

6 CHAIRPERSON MARIN: Post-production, which would
7 be -- and there is nothing in the law that says -- because
8 otherwise it would end up they're able to use that in
9 their products.

10 MR. MURRAY: I hope we don't have to have a law
11 to tell them to reuse their own waste material as most
12 industries do. And there is --

13 CHAIRPERSON MARIN: No. But what I'm saying --

14 MR. MURRAY: Mr. Petersen has educated me about
15 the issue over the course of the last several years in
16 terms of the difference in post-industrial and
17 post-consumer, so I --

18 CHAIRPERSON MARIN: But they also use -- see,
19 they use many other -- as I understand it, they use many
20 other sources of -- they actually recycle a lot more. And
21 they use post-consumer products in other areas of their
22 production, except on the trash bag, you know. And they
23 get no credit for any of that.

24 MR. MURRAY: I think you're hitting on exactly
25 where the solution lies in terms of creating an

1 alternative compliance mechanism. And that was the issue
2 we put on the table for them in August. We did that in
3 another plastic area that you regulate. So I think you
4 are absolutely right on target in terms of where the
5 solution lies. And the question is what is the best
6 approach for this Board to take at this moment to motivate
7 this industry to help us get there legislatively. We're
8 going to need their help legislatively. Again, I'm asking
9 you to hold their feet to the fire.

10 I think you're absolutely right on target in
11 terms of where the answer lies. It's a matter of how do
12 we get the industry to support legislation that gets us
13 there and not drag their feet. With all due respect to my
14 good friends that represent the companies in this
15 industry, they have not been super aggressive in working
16 with me towards that alternative compliance. But I think
17 you have it absolutely correct in terms of where the
18 solution lies.

19 CHAIRPERSON MARIN: Hold on a second.
20 Mr. Petersen wants to say something.

21 BOARD MEMBER PETERSEN: Well, I guess, Madam
22 Chair, I've been listening to this debate for six days.
23 But being in the recycling business for 35 years and
24 watching markets develop and collection programs and
25 things come out of the waste stream and develop the end

1 use for materials, I'm puzzled. And it's going to take
2 some convincing to make a decision on this as where we're
3 going. I don't know enough information about what's
4 happening. I agree with you. I agree with you. I hear
5 what you're saying, Ms. Peace. But this is something that
6 needs, in my opinion for me anyway, more time to consider
7 what's happening here.

8 CHAIRPERSON MARIN: Okay. Well, it seems to me
9 that we're going to be stuck again. We're not going to be
10 able to either give them an exemption --

11 BOARD MEMBER WASHINGTON: We can have three
12 votes.

13 CHAIRPERSON MARIN: But we need four.

14 BOARD MEMBER PEACE: So without four votes, they
15 do not get their exemption, period. That's the end of it.
16 And hopefully for next year they'll try a little harder
17 and work with our staff and give the quarterly reports and
18 everything that we have suggested. And for 2005 then we
19 consider if they get the exemption for 2005 and beyond.
20 But for 2004, they do not get their exemption.

21 CHAIRPERSON MARIN: Well, I don't want to go that
22 way. I don't want to do that. I think it would send a
23 horrible message to the people that in my view have tried
24 really hard. And that's my own personal view.

25 BOARD MEMBER MULÉ: Madam Chair, at the

1 Sustainability and Market Development Committee meeting,
2 didn't you as a Committee agree to go this route? And Ms.
3 Peace, you were at that meeting. I'm just trying to
4 understand.

5 BOARD MEMBER PEACE: No. I never agreed to go
6 this route. I think in the Chair's office on October 17th
7 it was agreed we go on this route. But I was not privy to
8 that meeting. I didn't agree to this.

9 BOARD MEMBER MULÉ: Didn't you agree that -- my
10 understanding at that meeting --

11 BOARD MEMBER PEACE: I don't think it went to the
12 Committee. It went straight to the Board.

13 BOARD MEMBER MULÉ: No. No. No. I believe the
14 Committee, you all agreed to have the Chair work with our
15 staff and the companies on this. I mean, that was my
16 recollection.

17 BOARD MEMBER PEACE: No. I don't think so.

18 BOARD MEMBER MULÉ: So you didn't agree to that?

19 BOARD MEMBER PEACE: I thought they'd worked hard
20 enough. It was the rest of you that decided they needed
21 to have another meeting.

22 CHAIRPERSON MARIN: I need at least some
23 direction. Because what's before us is the
24 recommendation. There's a motion, number one. So we need
25 to vote on that. And then we have to go back to whatever

1 it is. We're going to be at a standstill.

2 BOARD MEMBER PEACE: But a motion has been made
3 to give them their exemption. It's been seconded. So we
4 need to take a vote.

5 CHAIRPERSON MARIN: Would you please call the
6 roll?

7 EXECUTIVE ASSISTANT BAKULICH: Mulé?

8 BOARD MEMBER MULÉ: Aye.

9 EXECUTIVE ASSISTANT BAKULICH: Peace?

10 BOARD MEMBER PEACE: No.

11 EXECUTIVE ASSISTANT BAKULICH: Petersen?

12 BOARD MEMBER PETERSEN: Abstain.

13 EXECUTIVE ASSISTANT BAKULICH: Washington?

14 BOARD MEMBER WASHINGTON: Aye.

15 EXECUTIVE ASSISTANT BAKULICH: Marin?

16 CHAIRPERSON MARIN: Aye.

17 So what happens, Ms. Carter?

18 CHIEF COUNSEL CARTER: This Board requires four
19 votes for any action. And there were only three votes in
20 favor of the motion. So the motion did not pass. Now,
21 this leaves the matter undecided in terms of how we deal
22 with this company. You can come back and bring a new
23 agenda item.

24 BOARD MEMBER PEACE: I disagree with you. It
25 takes four votes to give them their exemption. They did

1 not get four votes. Therefore, they do not have their
2 exemption, period.

3 CHIEF COUNSEL CARTER: Yes, but there has been no
4 action by this Board in terms of --

5 BOARD MEMBER PEACE: What do you mean no action?
6 We took a vote.

7 CHIEF COUNSEL CARTER: Yes. You took a vote, but
8 the matter can be brought back if staff requires, because
9 there's been no action in terms of what the determination
10 for this company --

11 CHAIRPERSON MARIN: This Board has to make a
12 determination they will not have -- they will not get an
13 exemption. So if we take that vote, you have one vote and
14 one abstention. So they don't get that. We're at a
15 standstill. This Board has to act either way. Otherwise,
16 they don't automatically get anything. We need to find
17 them that, in fact, they have not done. That has to be a
18 finding of four members, not just one.

19 BOARD MEMBER PEACE: I sure thought they needed
20 four votes to get an exemption. If they don't get it,
21 they don't get it. You can't just keep putting this over
22 and over and over. It's the end of 2005.

23 CHAIRPERSON MARIN: We cannot have one person
24 rule for the entire Board.

25 So with that, maybe we can bring it back at the

1 next Board meeting. We'll have one more person that will
2 have it. We will be at a standstill. This is what I
3 feared, and this what will happen. So we can bring it
4 back.

5 And Mr. Petersen needs to understand this
6 further, needs to find out if, in fact, in may be his view
7 maybe they have. Maybe they haven't. You have three
8 Board members that believe they have made an effort. You
9 have one Board member that believes they haven't. Maybe
10 we can have four that will find either way. But we cannot
11 just have -- you know, this is not a dictatorship. We're
12 going to have four people decide either way.

13 So with that, we'll bring it to the next Board
14 meeting.

15 PLASTICS TECHNOLOGY SECTION SUPERVISOR LEAON:

16 We'll do.

17 Mr. Petersen, I'd be happy to brief you on it.

18 BOARD MEMBER PETERSEN: Thank you.

19 CHAIRPERSON MARIN: Thank you very much.

20 We'll go to the next item. That will be item 2,

21 Emergency Regulations for the Implementation of the

22 Electronic Waste Recycling Act 2003. And Shirley

23 Willd-Wagner.

24 (Thereupon an overhead presentation was

25 presented as follows.)

1 BRANCH MANAGER WILLD-WAGNER: Good morning, Madam
2 Chair and Board Members. I'm Shirley Willd-Wagner with
3 the Electronic Waste Recycling Program. And as you know,
4 today we are bringing forward specific language --

5 --o0o--

6 BRANCH MANAGER WILLD-WAGNER: -- that we have
7 recommended for revising our emergency regulations for
8 implementing the Electronic Waste Recycling Act.

9 --o0o--

10 BRANCH MANAGER WILLD-WAGNER: Quick review of
11 where we've been. We came to the stakeholders August 23rd
12 for our initial kickoff to the permanent regulation
13 process. And at that time, we identified some priority
14 problems we wanted to address sooner rather than later in
15 the existing regulations.

16 So we came to you at the Committee meetings in
17 September and October and actually in November discussing
18 options, discussing approaches. And then we proceeded at
19 the Committee's direction to hold an additional
20 stakeholder's meeting on October 19th. Really want to
21 thank both the stakeholders and the Board members for
22 their participation in this whole process and especially
23 in that workshop.

24 The engagement of the Board members has been
25 exceptional. And staff feels very supported by your

1 involvement in this program. And without the
2 stakeholders, many of whom are here today who you've met
3 at the Committee meetings, without that dialogue and
4 involvement, certainly we would not be where we are. And
5 I just want to express appreciation in all directions.

6 So today again we have revision to revisions.
7 Now we have tweaks to the revisions to our revisions we're
8 bringing forward today.

9 --o0o--

10 BRANCH MANAGER WILLD-WAGNER: As you know, we
11 identified three priority challenges in the payment
12 system. The first is a due date for the net cost reports
13 that are required to be submitted by all collectors and
14 recyclers. Secondly, the local government agent
15 provision, which we recognized was not defined that had
16 potentially an uneven application. And third, the
17 handling of covered electronic wastes that are
18 undocumented or source anonymous is the term that will be
19 used probably, otherwise eligible.

20 --o0o--

21 BRANCH MANAGER WILLD-WAGNER: Those were the
22 problems that were identified through the stakeholder
23 process.

24 So now the revisions to the emergency
25 regulations. The goal in our approach here is to try to

1 address the majority of the immediate concerns without
2 really inflicting significant changes to the existing
3 emergency regulations in the process of continuing the
4 dialogue to evaluate comments and suggestions through the
5 final regulatory process.

6 A reminder that emergency regulation authority
7 expires in December 2006. So the permanent rulemaking
8 process needs to continue and move on. We really hope to
9 bring things to you with specific language next October.

10 --o0o--

11 BRANCH MANAGER WILLD-WAGNER: Okay. The first
12 program recommendation for the priority problem is simply
13 on the net cost report due date. Stakeholders were
14 telling us that February 1st was too quick and too early
15 to allow for full compilation of data, so we had changed
16 the due date to March 1st. The purpose again of these net
17 cost reports is to present recommendations to you for any
18 payment adjustments that need to be made by June of each
19 year.

20 --o0o--

21 BRANCH MANAGER WILLD-WAGNER: Here we go into the
22 biggies. The local government agent designation, what we
23 have done is remove the word "agent," added a definition
24 of designated approved collector and defined the
25 conditions under which one could be a designated approved

1 collector specifying proof of designation.

2 --o0o--

3 BRANCH MANAGER WILLD-WAGNER: Reminder of our
4 terminology confusion at times, we use these words
5 repeatedly. Remember, an approved collector is somebody
6 approved by our staff as a collector for the purposes of
7 the payment system. A designated approved collector is
8 designated by the local government to provide CEW services
9 on their behalf.

10 --o0o--

11 BRANCH MANAGER WILLD-WAGNER: So the definition
12 of an approved collector, this has not changed since the
13 last Committee meeting. But we should read it into the
14 record. It means, an approved collector that has been
15 designated by a California local government to provide CEW
16 collection services for or on behalf of the local
17 government, and who, in the course of providing these
18 services for the local government, would not be subject to
19 the source documentation requirements pursuant to 18660.20
20 (j)(1)(b). Everybody knows how to spit those numbers out.
21 They are the requirements that specify the name and
22 address for the covered electronic wastes.

23 --o0o--

24 BRANCH MANAGER WILLD-WAGNER: In order to
25 describe this, we had to come up with what a proof of

1 designation would be. So our suggestions are a proof of
2 designation be a letter or other document which would be a
3 contract document that is secured by the designated
4 approved collector from a California local government.

5 Now, we have a change here that we did change the
6 "the" to an "a" designated collector. Where is my staff?
7 I guess it didn't get changed on the slide, but it is in
8 the addendum that you received and it has been posted on
9 the web. This was a change requested again by the
10 stakeholders at the last Committee meeting.

11 The document, whether it be a letter or a
12 contract, must include the beginning and end date of the
13 activity, the geographic area, the customer type and
14 description of the activity, and contact information for
15 the designating authority.

16 --o0o--

17 BRANCH MANAGER WILLD-WAGNER: An additional
18 provision you may recall was developed at the request of
19 the League of California Cities to ensure there is an open
20 transparent communication process between the collectors
21 and the local government. So at the Committee meeting we
22 presented this first part, the unitalicized -- the
23 non-underlined part. If the proof of designation secured
24 by the designated approved collector is a document other
25 than a letter, in other words a contract or some kind of

1 franchise agreement, if that is the case, that designation
2 is received from the local government and proof must also
3 include the entity that designated approved collector has
4 written to notify the local government that the document
5 has been used.

6 Additionally, it was during the thorough
7 discussion with these stakeholders this additional
8 underlying portion just simply states the written
9 notification provided to local government must also be
10 accompanied by a copy of that document being used. Pretty
11 straightforward, again transparent communication between
12 the entities. This has been posted on our website and in
13 the addendum.

14 --o0o--

15 BRANCH MANAGER WILLD-WAGNER: Now, at the same
16 time, we also recognized we had neglected -- we needed to
17 provide -- neglected to and needed to provide for a
18 transitional period between those entities who under the
19 old system for the last six or eight months received an
20 agent designation from a local government that might or
21 might not have met the new recommendations for proof of
22 designation.

23 So our recommendation here is Subsection G that
24 states if after July 1st, 2005, and before the effective
25 date of this regulation, a designated approved collector

1 has secured a document from a local government that does
2 not meet the definition of proof of designation as
3 specified in this section, such as document may be used by
4 a designated approved collector to comply with applicable
5 requirements of this chapter through March 31st, 2006.

6 Now you'll note the yellowed language is new and
7 added since the addendum was published. The rest of this
8 was published on the web on Thursday. And if we want to
9 go back to this later, Bob Conheim was our primary weekend
10 warrior. Most of us worked on this over the weekend with
11 stakeholders, and he can describe this in a little more
12 detail. But for right now I'd like to go on with the rest
13 of the issues and come back to these at your pleasure.

14 --o0o--

15 BRANCH MANAGER WILLD-WAGNER: Just wanted to
16 review the other options that have been suggested by
17 stakeholders to extend the designation from local
18 governments to any entity holding a franchise or contract
19 to provide solid waste services, would collect source
20 documentation where possible, but maintain documentation
21 consistent with the source anonymous CEWs when they cannot
22 maintain that specific documentation.

23 --o0o--

24 BRANCH MANAGER WILLD-WAGNER: I also wanted to
25 mention the other stakeholders' suggestions. Some had

1 recommended no change to the existing emergency
2 regulations since there was little data to support the
3 concern. There was also the suggestion that all
4 participants should be subject to source documentation to
5 eliminate the local government exemption completely. And
6 this is simply to have everyone have to stand by the same
7 rules and everyone collect the source documentation
8 required by the existing regulations. Our reasoning
9 behind the current recommendations from --

10 --o0o--

11 BRANCH MANAGER WILLD-WAGNER: -- staff is that
12 local governments do need to know, as I mentioned the
13 transparent communication, who's working on their behalf.
14 And the designation can be part of a contract or a letter,
15 and we will come up with a very simple check box form, so
16 that hopefully it will be an easy way to communicate.

17 --o0o--

18 BRANCH MANAGER WILLD-WAGNER: The next issue, of
19 course, is the source anonymous CEWs. Through the whole
20 stakeholder process, we identified this as a major concern
21 that there were no specifically defined ways for some of
22 this material to come into the payment system. Rather
23 than actually capping the quantity of covered electronic
24 wastes brought into the system, which we had discussed at
25 one point, we're recommending we define and delineate the

1 activities by which otherwise eligible source anonymous
2 CEWs are likely to come into the system. Specifically, we
3 have defined load check activities at permitted solid
4 waste facilities, illegal disposal conducted by local
5 governments or their designees and illegal disposal on
6 property owned or managed by approved collectors that are
7 nonprofit or charitable organizations.

8 As a result of the meeting last week, we did
9 delete the word "only" in that sentence. And I believe
10 we've discussed a little bit that we recognize that
11 nonprofit and charity organizations are frequently where
12 these kind of abandoned wastes, anonymous donations will
13 occur. It's just been the historical behavior of the
14 public. That's why we're recognizing this is a place we'd
15 like to -- they're California sources. They're not
16 bringing individual computers over from other states to
17 drop off at a thrift store. So we recognize these are
18 devices we would like to bring into the system.

19 --o0o--

20 BRANCH MANAGER WILLD-WAGNER: We still require
21 documentation for source anonymous. It's important to
22 recognize that we still want to know what, when, where,
23 who, who the contact name is. So we do still require this
24 documentation.

25 --o0o--

1 BRANCH MANAGER WILLD-WAGNER: Other stakeholders'
2 suggestions are to establish other business categories,
3 that they also be allowed to accept source anonymous CEWs
4 without that name and address requirement. We have
5 acknowledged and recognized that some other proposals
6 might be suggested today from stakeholders, and we've
7 really reviewed most of these.

8 Don't think this -- we have seen most of the
9 changes that are being recommended. But at this time
10 because of the timing on the emergency regulation, because
11 of staff resources, we really recommend what we've
12 suggested here and that those changes if there are any --
13 there might be several that have merit, but that we
14 discuss those as part of the permanent regulatory process
15 with full allowance for input from all stakeholders.

16 We believe that our proposal really allows for
17 any devices to come into the system through either
18 properly documented or source anonymous in those places we
19 have just discussed.

20 --o0o--

21 BRANCH MANAGER WILLD-WAGNER: Other
22 recommendations, of course, we have had the argument on
23 the side we make no changes to the emergency regulations
24 and also that we revisit past claims under the new rules.

25 --o0o--

1 BRANCH MANAGER WILLD-WAGNER: So basically the
2 reasoning behind our staff recommendation goes with our
3 overarching goal we need to balance between fixing these
4 emergency regulations to allow the maximum amount of
5 material to come into the system, balancing that with the
6 Board's fiduciary responsibility to protect this fund and
7 make sure that we can move forward in a manner that meets
8 the needs of all stakeholders.

9 We don't have a real good understanding of the
10 data on the size of the problem. And we believe that by
11 collecting source anonymous documentation where we are
12 recommending we'll actually be able to compile that data
13 to proceed with our final rulemaking process.

14 --o0o--

15 BRANCH MANAGER WILLD-WAGNER: That concludes my
16 presentation. I know there's several speakers, and I know
17 our staff can answer some questions.

18 CHAIRPERSON MARIN: Thank you, Shirley. As
19 always, you guys have done an incredible job. And, Bob,
20 he's our wordsmith master. Thank you so much.

21 We do have quite a few people, eight people, to
22 speak on this. I would really request that you keep your
23 comments as concise as possible and only address the most
24 important of your issues.

25 Ms. Christine Henke from the American Electronics

1 Association, please.

2 MS. HENKE: Good morning, Chair and members. My
3 name is Christie Henke with the American Electronics
4 Association. I'm here today in support of the tweaked
5 version that was presented to you. We, the electronics
6 industry, have a strong interest in ensuring this program
7 is successful. It's a first in the nation program. And
8 we think that we're breaking new ground here and we need
9 to do it carefully. Source documentation is an essential
10 part of this equation in our mind. If we loosen source
11 documentation requirements, then we run the risk of
12 processing waste from other states and out of country.

13 The designated approved collector section in
14 particular with the relaxed source documentation
15 requirements needs to be tightly regulated. We think that
16 the proposed revisions do that. And we appreciate all the
17 staff has done to get there. They worked really hard over
18 the last three months. We worked with them
19 collaboratively to get there, and I think they really did
20 a great job.

21 Any new substantive changes that are presented
22 today I would propose should be vetted through the final
23 rulemaking process. Again, we worked collaboratively with
24 the Board staff to ensure that our problems were resolved
25 and presenting a new change today would circumvent the

1 stakeholder process.

2 CHAIRPERSON MARIN: I don't think anybody is
3 looking forward to any changes today. So we'll go through
4 that.

5 Ms. Katherine Brandenburg, please, from the
6 Institute of Scrap Recycling Industries.

7 MS. BRANDENBURG: Good morning, Madam Chair,
8 Board members. My name is Katherine Brandenburg. I'm
9 with the Flanagan Law Firm, and we represent the Institute
10 of Scrap Recycling Industries.

11 We would like to start off by thanking the staff
12 and the Board. This has been a long process, and we know
13 we have another year ahead of us. So it's not over.

14 The one thing with the emergency regulations we
15 would like to see -- and I just heard your comment, but
16 I'll just throw it out on the table so you can think about
17 it and as discussions are taking place. The source
18 anonymous we do support the definition. However, we do
19 see that there is a Section 18660.6.(c)(3) that doesn't
20 allow for all collectors to accept source anonymous
21 material. It allows landfills, transfer stations, and
22 nonprofit and charitable organizations.

23 The one thing, you know, we look at from being a
24 collector and a recycler is that people who are illegally
25 disposing CEWs do not say, well, I think I'll take it to

1 the charitable organization because I know they'll be able
2 to put it through the process. They will put it wherever
3 they want. And we do find them at our doorsteps. So it
4 might not be at a landfill, but people do find the other
5 recycling areas and collectors. So we would like to see a
6 change made right there. And that's our major concern
7 right now with the emergency regulations. Thank you.

8 CHAIRPERSON MARIN: Okay. Thank you,
9 Ms. Brandenburg.

10 Mark Murray from Californians Against Waste.

11 MR. MURRAY: Madam Chair, Members, Mark Murray
12 with Californians Against Waste.

13 These folks have got this, and I'm just going
14 to -- number one, very much appreciate the time the Board
15 and the staff has put into this issue. We came to you
16 several months ago with a concern that folks that were
17 dutifully complying with the statute, the e-waste statute
18 in terms of collecting and recycling e-waste found due to
19 unintended consequences of the first set of emergency
20 regulations were ineligible for payment, primarily around
21 this issue of source documentation and primarily around
22 the issue of a need for consumer source documentation.

23 At this point in time, we've raised a lot of
24 issues with you, and most of those that are still
25 unresolved we're setting aside for the permanent

1 regulations. But I think there are three items that do
2 merit your review at this time. Because without these
3 changes, there are California generated CEWs for which the
4 Board will not be able to make a payment. And so I want
5 to just describe those three.

6 The problem relies exclusively on the issue of
7 devices where it is impossible to obtain consumer source
8 documentation because the consumer was not the entity that
9 either illegally disposed of the device or donated or
10 dropped it off to the entity that becomes the generator of
11 that device.

12 So Issue Number 1 -- which, again, these three
13 items are presented twice at the Markets Committee and in
14 the workshop. Number one, extending the payment
15 eligibility to a solid waste service provider who collects
16 illegally dumped CEWs as a part of their regular waste
17 collection. This is the photo of the bulky waste pickup
18 where consumers think they're supposed to put their TV and
19 computer out there in the street. They're collected by a
20 waste handler as part of a franchise or contract agreement
21 with the local government. That contract or franchise
22 agreement predates the e-waste law, so it doesn't
23 specifically say CEWs in it.

24 Under the proposed regulations, they wouldn't be
25 allowed to provide source anonymous. We're suggesting

1 that it be modified to include those collectors, not just
2 at the facility. But if I'm collecting it on the street
3 in a bulky waste pickup or collecting it from an apartment
4 complex, we want them to pick that TV up, that computer
5 up, and get it recycled, we want it to be eligible for
6 payment. It's a California generated waste. And the
7 regulations don't provide that.

8 Number two, the issue that Katherine Brandenburg
9 just spoke to is that we are recognizing that folks do
10 illegally dispose of these devices at permanent solid
11 waste facilities and nonprofit centers. And we provided
12 an exemption from the source documentation requirement for
13 those entities.

14 The private sector recyclers are saying they
15 experience the exact same problem. They're open for
16 businesses 9:00 to 5:00, but at other hours, people drop
17 off illegally disposed of e-waste at their door. They
18 would like to enjoy the same exemption from consumer
19 source documentation.

20 They effectively become the generator of that
21 material and are benefiting the State of California by
22 taking that device and collecting it and getting it
23 recycled. But under the current regulations, they may not
24 be eligible for payment. So these are changes. These are
25 proposed language changes to new regulations in Section

1 186606 Subdivision C.

2 The final item is staff's proposed new language
3 that did not exist in the regulations that we've been
4 living with for the last several months that is
5 sub-paragraph number 4 basically specifying that CEWs
6 transferred through a designated approved collector are
7 not eligible for payments unless CEWs are accompanied by
8 applicable source documentation.

9 I'm not sure that we've come up with every
10 specific circumstance where source documentation is
11 impossible to obtain. I'm not sure that we've tried to do
12 a great job of identifying in A, B, and C what those
13 circumstances might be. But I'm not sure we've come up
14 with every possible scenario. We lived without paragraph
15 4 for the last nine months of the program. It seems to me
16 we don't have to have that new paragraph that's being
17 proposed. I'm not sure that anyone has requested that
18 paragraph. Seems to me that three-line sentence could be
19 struck and saved for the permanent regulations.

20 Those are the three language changes we're
21 proposing. Again, these are focused only on situations
22 where source -- it is impossible to obtain the consumer's
23 source documentation requirements. And those are our
24 changes. We ask you to incorporate those into the
25 adoption of the new interim regulations. Thank you.

1 CHAIRPERSON MARIN: Thank you, Mark.

2 Let me ask staff. Didn't we add this? Because
3 why did we add this? There was a request for that
4 specifically, right, at the Committee meeting?

5 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

6 HUNTS: Are we talking number four?

7 CHAIRPERSON MARIN: Yes.

8 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

9 HUNTS: Jeff Hunts, Supervisor to the E-Waste Program.

10 There's been some misunderstanding around what
11 (c)(4) is supposed to do. I refer to it as the designee
12 clause. There was misunderstanding in the original -- by
13 the way, this provision has been here since the original
14 revisions were proposed. It's not a latecomer to the
15 discussion. When a designated collector -- or using the
16 terminology that exists as of today, an agent operating
17 collection services is interacting with the originating
18 source of materials, the California source, they can
19 accept that material without name and address, the law,
20 the regulations do not provide for an agent to receive
21 accumulations of CEWs from other handlers, other
22 collectors, and impose on them that same source anonymity
23 or the name and address immunity that would be provided to
24 those materials received directly from a source.

25 So what this is intended to do, or was intended

1 to do, was clarify the fact when you're an agent and
2 you're accepting pre-accumulated loads, you need to secure
3 a source documentation that was supposed to be associated
4 with that material in the first place. That the local
5 government collector or an agent collector could not, for
6 lack of a better term, launder accumulations of material
7 that who knows where it came from into the system.

8 CHAIRPERSON MARIN: So this was not really
9 changed. Why is it red?

10 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR
11 HUNTS: Some stakeholders I think misunderstood the
12 purpose of this provision. It was a clarifying provision
13 that staff's Program's attempt to make it more clear when
14 a designee or when an agent or now the designee is
15 receiving materials, that name and address immunity comes
16 at the interface with the source. But if you're accepting
17 accumulations of materials, you need to secure the
18 original source documentation that was supposed to have
19 come with that materials.

20 MR. MURRAY: I think the staff's objective, which
21 is I think narrower than what the language reads, is a
22 good one. I have no objection to the staff's objective
23 here. I'm concerned that this language, because I may be
24 a handler of devices, because I volunteer to take the
25 obsolete computers from my son's school to a collector to

1 get those devices recycled. I'm a handler. I don't have
2 the original consumer source documentation for those
3 devices.

4 But it seems to me the collector and recycler
5 should be eligible for payment for those devices to
6 encourage that kind of activity getting these devices out
7 of people's closets and out of people's garages. And
8 maybe Mr. Conheim could provide some clarification. In
9 the scenario that I described where we don't have the
10 original consumer source documentation and I'm --

11 CHAIRPERSON MARIN: Why wouldn't the school
12 become the source? We discussed this.

13 MR. MURRAY: As long as -- what I'm looking for
14 is that clarity. The school entity, whether it's a
15 private sector entity, a public sector entity, a
16 nonprofit, that they can be the source and that you don't
17 need the original source document -- consumer source
18 documentation as your California source definition
19 suggests.

20 CHAIRPERSON MARIN: Mr. Conheim.

21 STAFF COUNSEL CONHEIM: Madam Chair and members,
22 Robert Conheim from the Legal staff.

23 Mark, in your scenario, if the school uses this
24 material, then they are the ones who become the generator
25 of it or the disposer of it. If they're just collecting

1 for a fundraiser, then there is a pathway for this
2 material. But it needs to be plugged in with name and
3 address. And it needs to go through either an approved
4 collector or a designated approved collector. So there is
5 a pathway for this material. Particularly if the school
6 becomes the user of this, then they become the consumer
7 who disposes.

8 MR. MURRAY: I appreciate that clarity. That's
9 the answer I was hoping I wasn't going to get, frankly. I
10 just got a solicitation from the Sacramento Zoo. I'm a
11 member of the Sacramento Zoo, saying we need computers.
12 We need -- please donate your old computers. People
13 respond to these. Some of the computers they donate to
14 schools, zoos, nonprofits don't work. And so then that
15 entity needs to manage those devices. They may not have
16 the original consumer source documentation for those
17 devices. So this very narrow objective --

18 CHAIRPERSON MARIN: So they become the source.

19 MR. MURRAY: I want to be clear that they are
20 going to be the source. They may never use that device.
21 Maybe their collector can suggest to them they fudge the
22 documentation and say pretend you were, in fact, the user
23 of that. But as long as that's clear, that's what I'm
24 looking for. And I didn't get that clarity.

25 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR

1 HUNTS: As Bob Conheim pointed out, there is a pathway for
2 all legitimate CEWs to come into this system. That
3 pathway is not necessarily a one-stop pathway through a
4 daycare center or through a zoo. As we discussed at the
5 Committee meeting, we're talking about a hazardous waste
6 for which there are DTSC universal waste laws upon which
7 the Board, in administering the payment system, must rely
8 and must not encourage neglect or violation of those laws.

9 There is a pathway for all materials. The Board
10 cannot be responsible for the decisions made at the local
11 level by well-meaning entities that choose to take
12 possession of a material, handle it in a way that removes
13 it from source information, and then wants reimbursement
14 for it. Program is doing a good job of getting the word
15 out. We're working with the collection infrastructure.
16 We're working with DTSC.

17 CHAIRPERSON MARIN: Mr. Conheim.

18 STAFF COUNSEL CONHEIM: Madam Chair and members,
19 directly, this subparagraph 4, two points. Number one,
20 it's in red on the paper you have, because that's the way
21 Mr. Murray prepared his text.

22 CHAIRPERSON MARIN: It gave me the impression
23 that you guys --

24 STAFF COUNSEL CONHEIM: This is not ours. This
25 is Mr. Murray's.

1 MR. MURRAY: That is mine. The underline is
2 theirs.

3 STAFF COUNSEL CONHEIM: Secondly, Number 4
4 doesn't add a new requirement. It merely in the context
5 of expanding on the availability of routes for the
6 collection of source anonymous waste simply iterates the
7 requirements that are in the law beyond and other places
8 in the law. But it positions it here, because we have
9 such a growth and such a change in this particular
10 regulation we felt it was necessary simply to say that
11 whatever applicable source documentation is otherwise
12 required applies. It doesn't add a new requirement in our
13 view. We think it's a notice provision, and we think it's
14 innocuous. That's what we feel.

15 And that's noticed to Mr. Murray and others who
16 are concerned about it, and others that that's how we're
17 going to enforce it. And we think it's necessary for this
18 less than a year period where these emergency regs are
19 going to move forward with expanded opportunities for
20 source anonymous waste. And remembering that there is a
21 pathway for all of this waste, but it may require in some
22 other aspects in some other situations that a designated
23 approved collector or approved collectors process the
24 waste or collect the waste and -- I have bugs here. This
25 may be a message for me to stop speaking. But I can stop

1 here and put a period at the end of the sentence.

2 We think it's necessary. We don't think it adds
3 a new requirement. And we don't think it burdens any of
4 the scenarios that Mr. Murray is describing to you any
5 more than the existing regs would if it weren't there.
6 And we're comfortable with this provision.

7 BRANCH MANAGER WILLD-WAGNER: One statement to
8 bring it down to the examples because we like to discuss
9 concrete examples, as Mark has brought up in the case of
10 the zoo. If you bring a donated computer, you're usually
11 going to want some kind of a record of the donation for
12 your taxes. You would have the face-to-face opportunity
13 to collect name and address and/or a program could be run
14 in conjunction with the designated collector or the local
15 government.

16 CHAIRPERSON MARIN: That's a good point. Usually
17 some people that donate, especially working things, they
18 want to get their tax credit. So okay.

19 Thank you, Mr. Murray.

20 Ms. Heather Bowman from Hewlett Packard.
21 Welcome, again.

22 MS. BOWMAN: Thank you very much. Thank you for
23 the opportunity to provide testimony. I'm here on behalf
24 of the Hewlett Packard, and I would first reiterate the
25 comments of AEA and our commitment to making this law and

1 the regulations work. We appreciate all the time staff
2 has put into this. And in consideration of all that time
3 and effort that has gone into this, not just by the staff,
4 but by this Board in particular in listening to all of the
5 testimony, we think that by expanding or changing anything
6 related to this regulation by any proposals that have been
7 brought today would just seek to kind of make this less --
8 the integrity of the system is really what we're looking
9 at.

10 Our interest as HP is to make sure that the
11 intent that the fees that are paid on the products that
12 are then used for products that are generated here in
13 California. We've heard anecdotal evidence that there are
14 people bringing in loads to drop off at approved
15 collectors here that of course they don't have source
16 consumer documentation because they're out-of-state
17 collectors. And we want to make sure this is used for
18 Californians, not for people trying to take advantage of
19 the system. We want those who are doing the right thing
20 to be compensated. That's what the system is for.

21 But this is a privilege. The reduced source
22 documentation is a privilege. And it should only be
23 granted in certain situations. If we play with all these
24 hypotheticals of what might or could possibly happen, all
25 that we do is interfere with the integrity of the system.

1 And all of these changes that are being proposed today
2 possibly are good changes and should be considered. But
3 they should be considered with proper notice and comment
4 for all stakeholders to consider the possible implications
5 of what those changes might be.

6 So we think that any of those changes that are
7 presented here today should be held over for the final
8 rulemaking. That will happen. It will happen in the time
9 period that is allotted by the rules. And we should make
10 sure that what we're presented here today by the staff
11 gets in place, and gets in place sooner than later so we
12 can move forward and make sure that the right things are
13 happening. We appreciate the cooperation and the ability
14 to work together with the Board and with the staff to make
15 these changes and to make sure the right things are being
16 done and the people who need compensation for the proper
17 CEWs are getting that compensation.

18 But let's not open this up to out-of-state
19 dumping. And that's what this could possibly do. When we
20 talk about a load arriving, well, where is that load
21 arriving from? If you don't have some idea where that's
22 being generated, I would surmise it's coming not from
23 California. And we need to make sure this is kept in the
24 right way, that we keep those privileges tight for those
25 specific circumstances of local government collection. I

1 understand there are other opportunities, and we need to
2 understand what those implications might be.

3 Thank you very much.

4 CHAIRPERSON MARIN: Thank you, Ms. Bowman.

5 Next person is Cynthia Vanthul from Waste
6 Management San Gabriel Valley.

7 MR. LARSON: May I speak first?

8 CHAIRPERSON MARIN: Now, Mr. Larson, are you also
9 known as Chuck White?

10 Go ahead. You know, this is a huge privilege,
11 because it's usually beauty. But in your case, I guess
12 it's going to be age before beauty.

13 MR. LARSON: I accept both of those as absolutely
14 honest statements of beauty and age.

15 I'm asking for this change really in the interest
16 of time, because we're going to incorporate our comments
17 together. And, yes, I'm always a little reluctant when
18 Chuck calls and says, "Hey, would you go down and do this
19 one item?"

20 CHAIRPERSON MARIN: Minor thing.

21 MR. LARSON: I've had that experience before and
22 sometimes it isn't as pleasant.

23 Well, recognizing there's no land swell -- first,
24 I am George Larson representing Waste Management.
25 Recognizing there is no land swell of support for change

1 to these regulations today, I nonetheless have brought
2 some real people versus someone from Sacramento to provide
3 some information I think is critical and is important.
4 And in the interest of time, I'll combine myself and
5 Cynthia Vanthul's, who is the Recycling Compliance Manager
6 for the San Gabriel Pomona Valley Division of Waste
7 Management, Inc. And I'm also going to defer two of my
8 points to the previous speaker, Mark Murray of
9 Californians Against Waste. That relating to item one and
10 two of his presentation anyway.

11 But what I want to talk to is the issue of the
12 changes as it relates to the term "agent" and how that is
13 being further, I guess, clarified as the word to the
14 designated approved collector. We support both of those
15 changes. I'm here and Cynthia who I'll hand the mic over
16 to. If you can give the picture, please.

17 Cynthia is the person on the ground who deals
18 with the implementation of this law as it's currently
19 written. And while we support what are the proposed
20 changes are to the designated approved collector in order
21 to be eligible for some of the benefits that would accrue,
22 such as being able to submit reimbursement for certain
23 types of wastes that are left at certain physical
24 locations under certain conditions, even though the
25 private sector is the only one working under those rules,

1 we recognize that, we would like to explain a couple of
2 issues or problems that came up and are present. I'd like
3 to turn it over to Cynthia and she can explain.

4 MS. VANTHUL: Madam Chair, Board members, thank
5 you for the opportunity to listen to me. I, fortunately,
6 haven't had the opportunity to come to Sacramento. But
7 Chuck White is there. And I'm one of the persons that are
8 on the other side sending the e-mails and frantically.
9 And Shirley can vouch for this. I am back there screaming
10 yes, yes, yes and no, no, don't do that. And I am the
11 Recycling Compliance Manager for the L.A. market area. I
12 represent about 30 cities in L.A. County and the County,
13 too. And I work with about 14 Cities full time.

14 Let me get to my notes. I'm also the user of
15 these regs. In October last year -- in September of last
16 year, I was hired for Waste Management and immediately I
17 started to get together these regs. I start putting
18 together and interpreting it. I start training staff. We
19 applied for our collectors' certificates. We did receive
20 that. We made sure that everybody was trained, including
21 our cities. We put collectors logs out there and made
22 sure that all the T's were crossed and the I's were
23 dotted, but we found some problems out there. I found
24 that it was really difficult to meet all the aspects of
25 these regs.

1 So I appreciate the tweaks. I really do,
2 Shirley. Thank you so much. And thank you, Mark, and
3 everybody for being out there and listening to me out in
4 TV land. It's been really tough for us.

5 So I'm just asking for you to consider a little
6 more tweaks to these adjustment to these tweaks. First
7 regarding the designated approved collector letter, I
8 received a call in May of 2005 from our Waste Management
9 approved recycler. And the gentleman asked me if I can
10 get letters -- agent letters from my cities, because we
11 did not receive our refunds because the logging was
12 incorrect.

13 So I requested a letter from all my cities. I
14 thought, hey, we're friends. We have franchise agreements
15 with you. I work with you on a daily basis. I thought
16 this was an easy task. I contacted all my cities, and I
17 waited and I waited and I waited. It went -- these
18 letters went everywhere. And today, of my 14 cities, I'm
19 submitting to you, Shirley, four letters. Only four. I
20 received my first letter August 15th. It took me that
21 long. My second letter, August 22nd. My third letter,
22 October 17th. And my last letter, I just received
23 November 2nd.

24 That designated agent killed us. It went through
25 all the attorneys in the cities. I appreciate you

1 changing the language. But what I'm asking you is, I
2 cannot go back to these cities and ask them to write me
3 another letter. Please don't make me do that. It was
4 like pulling teeth, and it was painful. And it has been
5 painful.

6 With the new regs the way they're written, it
7 might be easier for me to get the letters. So I'm asking
8 you of my four cities -- and I'm sure the other Waste
9 Management folks throughout the state -- because I'm here
10 representing all the users of Waste Management out there,
11 all the other recycling and compliance managers and all
12 the other folks out there that are trying to collect these
13 letters. Please grandfather my letters into the end of
14 the emergency regs. Do not make me go back and ask the
15 cities again.

16 CHAIRPERSON MARIN: Not these four letters;
17 right?

18 MS. VANTHUL: There's a lot of other letters out
19 there. That's of -- again, 30 cities. Fourteen I'm
20 working full time. Four letters. They're signed and
21 there they are. I can even send you the originals if
22 you'd like. I figured it's going to take me until next
23 year to get the other letters if we do not change these
24 regs.

25 Regarding the source anonymous material under the

1 new regs, the new changes were written to certify any
2 solid waste facility with a load check program. In my
3 case and in several cases in Waste Management, we're just
4 a yard. In my facility, we represent about 13 cities and
5 the county in L.A. County. We have billing upstairs,
6 customer service down there, our district manager, and
7 about 300 drivers. We're not a permanent solid waste
8 facility. But guess what? I handed you some pictures.
9 First of all, the first couple pictures is just an average
10 of what we pick up. This is a community cleanup. This
11 was from Chuck White. He wanted me to share it with you.

12 CHAIRPERSON MARIN: He already had.

13 MS. VANTHUL: But the second picture. But this
14 is from a public works yard that we picked up in our city.
15 This is from things that the program they pick up in their
16 community. They have kids that go out on the weekends and
17 just clean up. I'm sorry, Rosalie.

18 BOARD MEMBER MULÉ: But they're exempt.

19 MS. VANTHUL: But they're exempt. We're not
20 done.

21 Page number 4. This is my yard. I'm not a
22 permitted facility. This is what's dumped in my yard as
23 of Monday. I took two pictures. When we come in, we have
24 a spot in our yard in the back that people have found,
25 they think it's a dumping field. I don't know why. And I

1 have no documentation, and this happens every day. Every
2 day. We even have security there. And this is not just
3 in my facility in Baldwin Park, but this is in L.A. Metro.
4 This happened everywhere. I have no way to document this.
5 So we still have --

6 CHAIRPERSON MARIN: Why would you need to
7 document it? I don't understand. You are an approved
8 collector.

9 MS. VANTHUL: But I have no way to say where this
10 material came from.

11 CHAIRPERSON MARIN: It's from the City of Baldwin
12 Park.

13 MS. VANTHUL: That's my only way. But the way
14 the law is written, I have -- luckily I do have --

15 CHAIRPERSON MARIN: Do you have a contract with
16 the City of Baldwin Park?

17 MS. VANTHUL: I have contract with the City of
18 Baldwin Park, but a lot of our cities where Waste
19 Management are located do not. That's our problem. I'm
20 lucky. I'm lucky.

21 BOARD MEMBER WASHINGTON: How do they get access
22 to your yard?

23 MS. VANTHUL: They dump right outside the back of
24 the yard.

25 BOARD MEMBER WASHINGTON: You don't put a fence

1 up?

2 MS. VANTHUL: We have a fence. It's dumped in
3 the back of the yard behind where -- there's a commercial
4 building behind there and they just dump. Okay. So the
5 only way that we can overcome this is, thank goodness, I
6 do have a franchise agreement with City of Baldwin Park,
7 and I do have a letter.

8 But I'm speaking on behalf of the whole State of
9 California Waste Management. We do not have franchise
10 agreements in all the cities that we're located in. We
11 don't. So how do they overcome this problem? And this is
12 just one thing. So that's what I'm asking you. That's
13 why I wanted to bring real pictures. My real
14 frustration --

15 CHAIRPERSON MARIN: But at the end of the day,
16 Cynthia -- at the end of the day, if we go forward with
17 the regulations that we have right now, we will have the
18 opportunity to find out how much of a problem is this. I
19 mean, is this 10 percent of everything that you collect?
20 Is it 1 percent? Is it 50 percent? You know, let's find
21 out what the real problem is. And let's go forward with
22 the regulations the way they are. You will be able to
23 document, in fact, is this every day and how much do you
24 collect every day. Is this 1 percent? How much of a
25 problem is it?

1 MS. VANTHUL: It's hard to tell, because we work
2 with so many cities in Baldwin Park alone and we have L.A.
3 Metro and all our different areas. But we get picked up
4 about every ten days in our yard, because we have cities
5 that just have so much material. And, unfortunately, part
6 of our franchise agreement says pick everything up. It
7 doesn't say e-waste. It says you have to pick everything
8 up. So we do.

9 Thank you. I appreciate your time.

10 CHAIRPERSON MARIN: Thank you, Cynthia.

11 MR. LARSON: If I may close quickly.

12 CHAIRPERSON MARIN: Yes, Chuck.

13 MR. LARSON: I don't think we're going to get a
14 change today, but I did want you to see we think the
15 problem is real. We would ask if it is a worthy
16 consideration, is the time that it takes to get the
17 response from the cities under the old agent process, we
18 do not expect to be accelerated by any rate with the
19 designated approved collector process. So that
20 transition -- and I think that word has been transition.
21 And Bob and I had a conversation maybe some 90-day number
22 comes up.

23 But the point is we don't want to get stuck not
24 being able to serve our clients. And possibly just a
25 policy letter from this Board that would state that it is

1 in the best interest of the local governments to negotiate
2 or sign these kinds of designated approved collector
3 letters to enable us to take advantage of the great work
4 that you and the staff have done to allow some options.

5 CHAIRPERSON MARIN: We had actually considered
6 that there will be a letter coming from the Chair on
7 behalf of the Board insisting that Cities fill out these
8 forms -- and I am sorry. Give these letters to the
9 approved collectors.

10 BOARD MEMBER WASHINGTON: Bob had --

11 BOARD MEMBER MULÉ: What is the status of that
12 letter? Because I know I had requested that we
13 communicate directly with the jurisdictions. And we had
14 all agreed that a letter would go out probably under the
15 Board or the Chair's signature. So I'm just wondering
16 where we are in that process.

17 STAFF COUNSEL CONHEIM: We've been absorbed --

18 BOARD MEMBER MULÉ: I know you have. But I think
19 it's very important that we communicate, because that was
20 one of the things that we failed to do in the very
21 beginning was communicate directly with the cities about
22 this program and let them know that this was coming down
23 the pike, and then what their responsibility was and what
24 their relationship -- their revised relationship would be
25 with their haulers and with the facilities in their

1 communities. And yet we put the onus on the haulers and
2 the nonprofits to do that for us.

3 STAFF COUNSEL CONHEIM: Ms. Mulé, we're trying to
4 stabilize the language. We didn't know what to tell
5 people. Now we can.

6 BOARD MEMBER MULÉ: So then once we get these
7 emergency regs passed, we'll get a letter out.

8 STAFF COUNSEL CONHEIM: More than a letter and
9 more than a list serve. I'm willing for companies who
10 cannot get designated collector documentation, I'm willing
11 to get on the phone with city attorneys and discuss what
12 the problems are.

13 (Applause)

14 BOARD MEMBER MULÉ: Thank you, Bob.

15 STAFF COUNSEL CONHEIM: One-on-one.

16 CHAIRPERSON MARIN: I even suggested that we
17 would talk to the Mayors and the Council members to get
18 that done. So we cannot ask you to do something and then
19 tie your hands behind your back. So we'll help you with
20 this.

21 BRANCH MANAGER WILLD-WAGNER: We have an ongoing
22 initiative with the Public Affairs Office to try to
23 identify and figure out other ways we can outreach. We'll
24 do a list serve and another training now that they have
25 these specific requirements. We had put off a training

1 with the League of California Cities, as you call the
2 webinars. Now we have the answers, we'll be able to do to
3 two or three. We've had classes full, so we'll continue
4 to do that once we have the rules.

5 BOARD MEMBER WASHINGTON: Real quickly, Shirley.
6 Those letters, would Waste Management be able to
7 grandfather those letters?

8 BRANCH MANAGER WILLD-WAGNER: Anybody would be
9 able to do it until March 31st. And then as long as these
10 letters -- which looking at them, they do look like they
11 meet the new requirements, absolutely they would all be
12 grandfathered in.

13 CHAIRPERSON MARIN: Okay. Mr. Leonard Lang. I
14 have three more, so please be concise in your comments.
15 Welcome again, Mr. Lang.

16 MR. LANG: Madam Chair, Members, thank you. I'm
17 Leonard Lang with the Allan Company. I represent eleven
18 collection facilities including the recycling center at
19 San Diego's Miramar Landfill here. Also I might state our
20 plant headquarters is a mile away from Waste Management in
21 Baldwin Park.

22 CHAIRPERSON MARIN: You're not dumping all of
23 your stuff into their waste?

24 (Laughter)

25 MR. LANG: No. We will get it also, Madam Chair.

1 And we have four affiliated companies. We are members of
2 ESRE and ACRE, the largest recycling companies in
3 California. We appreciate the staff's efforts and
4 recognize the difficulties of implementing the new
5 program. I do appreciate the changes in proof of
6 designation.

7 But with that said, I support the recommendations
8 of CAW for its simplicity. It addresses the issue of
9 source anonymous. It puts all collectors on a level
10 playing field. And it maintains the Board's ability to
11 direct recovery payments. The issue of subparagraph 4, it
12 specifically states that's not eligible for payment.
13 That's the issue that Mark is speaking to. That's the
14 issue I would speak to. And I would note that I've
15 already commented on the definition of California sources
16 already excludes California sources. And that's part of
17 the problem. Thank you.

18 CHAIRPERSON MARIN: Thank you, Mr. Lang.

19 Mr. Dennis Kazarian, please. You're everywhere,
20 sir. Are you following us?

21 MR. KAZARIAN: Dennis Kazarian, E-Recycling.

22 I want to start by always saying I really
23 appreciate how far we've come and how the staff has worked
24 so diligently. I always believe that a staff is a
25 reflection of the Board and/or its members. This is a

1 great staff. They've worked hard. They have been
2 understanding. We don't always agree. But they're
3 willing to listen. And I think that says a lot for you as
4 a Board, and I want to thank you.

5 We support the proposed changes. I think that it
6 does what it needs to do. There are some other issues as
7 raised from Waste Management, the haulers.

8 And Mark, Shirley, I need those letters. They
9 need to go in the waste files. But you can see the
10 problem is they do develop and this is a problem.

11 I would also recommend in another way that when
12 you do talk -- thank you, Bob, for saying you're willing
13 to go talk to the city attorneys. But I would propose you
14 talk to cities about becoming collectors. Because if they
15 become collectors, they can collect their material and
16 give it over to the haulers. And as Jeff has said, there
17 is a pathway for all of this. But let me remind Jeff
18 there is a pathway to get across this good state of
19 California. And in some areas, a 15-minute ride ends up
20 being about a three-hour ride on some of our freeways.
21 And the pathway you can get through, we have some of those
22 problems here. There is a pathway, but we are sort of
23 clogged, and we either need to figure out how to build
24 some more lanes or double deck our ideas here.

25 But in reality, we have worked hard. I want to

1 make it clear that the disconnect has been and always will
2 be it seems that the legislation simply said keep it out
3 of the landfill and leave the burden to government and
4 leave the cost and give a free mechanism for people to be
5 able to dispose of this. And the job of the staff or the
6 job of the Integrated Waste Management Board has been to
7 not allow fraud. And the disconnect between implementing
8 the rules to make sure that we get the material in in a
9 legitimate source way and the difference in legislation
10 they just keep it all out of the landfill is the
11 disconnect. So we have that tough job to do.

12 But this material clearly some of it is not
13 getting into the system and should be. We know that.
14 We've already heard that. And I could give you those
15 numbers. I have presented some of those numbers to the
16 staff. I literally -- we do the haulers, as you well
17 know. We have probably more haulers than anybody. But we
18 have a lot of other kinds of -- there probably isn't any
19 market that we haven't had real hands-on experience with.
20 The haulers are clear. And the permitting of the landfill
21 and the permitting of transfer stations certainly go a
22 long way to solve that problem.

23 But I do believe there is a lot of discussion
24 left to take place, and in the final regs we can talk
25 about that. But the haulers should not be excluded.

1 But you do need to do some work with the Cities.
2 You have given them that responsibility. You have given
3 them that leeway with some additional responsibility. It
4 is up to you to talk to them and it is up to you to find
5 the different avenues.

6 I really appreciate the opportunity and all the
7 work and hard thought that has gone into this. Thank you
8 very much.

9 CHAIRPERSON MARIN: Thank you, Mr. Kazarian.
10 Last but not least, Mr. Evan Edgar, please, from
11 CRRC.

12 MR. EDGAR: I'm Evan Edgar --

13 CHAIRPERSON MARIN: And you're also following us
14 everywhere we go.

15 MR. EDGAR: I'm from Sacramento, and I'm real.

16 You had some real solutions today in the proposed
17 language that's being adopted. Because we have real data
18 at the facility based on behalf of CRRC there's over 50
19 MRFs out there and transfer stations that do collect this.
20 And today we have a pathway with integrity that allows us
21 to continue this program. So you answered the concerns of
22 these emergency regs that needed to be answered now.

23 That's great stuff.

24 I also represent 100 collectors. And to get that
25 information, we don't have as concise data. But we know

1 we have a problem we're discussing. So we have that for
2 the final regs. So we do have a pathway. We have
3 integrity. And we support the language today.

4 I also tried to get agent city letters. And I'm
5 striking out. I'm one out of ten. And it's tough to get
6 those. So we'd like to be grandfathered in on the agents
7 we have today so we don't have to go back to the well. So
8 we support that transitional language.

9 Thank you for the good work. And we support the
10 errata amendments today that came through the Waste Board
11 staff.

12 CHAIRPERSON MARIN: Thank you, Mr. Edgar.

13 I think we all agree that the people that have
14 already received the letter should be grandfathered in.
15 There's no reason for them to go back and request new
16 letters.

17 Mr. Conheim, please agree with me.

18 STAFF COUNSEL CONHEIM: Madam Chair, under the
19 current language we propose to you today, those letters
20 which meet the requirements of new regulations would be
21 grandfathered in. There's no need to get them. By those
22 that do not exceed to those or comply with those standards
23 and we have them on the slide -- let me see. Those
24 letters which do not have the four criteria discussed:
25 Beginning and end dates of the designated; the geographic

1 area; customer and activity type; and the contact
2 information for the designating authority. And some of
3 these that we saw here today do have a grace period to be
4 grandfathered in. We must move everybody to the new
5 standard. Otherwise, there's no point in adopting a new
6 standard.

7 The purpose of adopting the new standard was to
8 relax the requirement for getting a designation letter to
9 take out the word "agent," because it caused such a
10 problem to city attorneys and other arms of local
11 government. So what we've done is we've really
12 genericized, or made generic the concept of just tell us
13 this company is doing the job for you for e-waste and tell
14 us in the manner of these four criteria.

15 CHAIRPERSON MARIN: Hold on one second.

16 BOARD MEMBER MULÉ: Were those specific
17 provisions required in the original go-around on the
18 letters?

19 STAFF COUNSEL CONHEIM: There was no standards at
20 all.

21 BOARD MEMBER MULÉ: Well, then, I'm going to ask
22 Cynthia to address that.

23 Cynthia, would you -- would your cities be
24 willing to give you another letter that now requires new
25 information?

1 MS. VANTHUL: It's just like pulling teeth.

2 BOARD MEMBER MULÉ: Could you come up?

3 CHAIRPERSON MARIN: Let me ask you this. How
4 many letters do we have? Do we know how many of those we
5 have?

6 MS. VANTHUL: If my original letters were that
7 easy, I would receive 14 letters. With these guidelines,
8 it would have been a lot easier. The agent part was what
9 killed us. But, again, I just received a letter last
10 week. How do I go back and say, "You need you to write me
11 another letter?"

12 BOARD MEMBER WASHINGTON: Blame it on the Board.

13 MS. VANTHUL: It sort of speaks to that. What I
14 basically told our folks, because after I was begging
15 these folks, just say we can pick up your e-waste. You
16 know, here's a sample. And when you look at the letters,
17 you will see they all do say agent in there. So --

18 BOARD MEMBER MULÉ: We're not talking about the
19 agent.

20 CHAIRPERSON MARIN: We're not talking about the
21 agent anymore.

22 MS. VANTHUL: This letter is great. This would
23 have been easier for me.

24 CHAIRPERSON MARIN: We're going to have to make a
25 policy decision with the letters we received. It's going

1 to be our call here, because we cannot -- in good
2 conscious we cannot go back and ask them. I'm going to
3 take at face value that the letters we have -- if the
4 Board concurs, that the letters that we currently have on
5 record from the Cities that said agent, that there was a
6 specific intent to have the haulers or these collectors do
7 what we asked them to do. And the new letters that we're
8 going to ask these people to get will have these four
9 particular requirements which, in fact, would make it much
10 easier for the Cities to draft those letters.

11 BRANCH MANAGER WILLD-WAGNER: We'll make a simple
12 checkbox for these letters that address the four issues.
13 And hopefully most of the agent letters do address those
14 four issues. Our proposal is up here -- I got it back up
15 on the screen -- to say they would have until March 31st
16 to get that checklist if their letter doesn't meet
17 those -- if your direction is different, we can change it
18 in the final regs or the final rulemaking process is in
19 place in case things change. Bob will give some advise on
20 that.

21 BOARD MEMBER WASHINGTON: You're going to have to
22 change it then to meet Madam Chair's direction in terms of
23 getting those letters.

24 STAFF COUNSEL CONHEIM: Mr. Washington, Madam
25 Chair, your statement that all the existing agent letters

1 comply is probably not accurate. Some do. And what we're
2 concerned about and why we're trying to provide a
3 compliance period, a phase-in period, is because we really
4 don't recommend a bifurcated system in which some cities
5 never complied and others now have to comply. And we do
6 not know how difficult it will be to get a non-agent
7 letter. That's the reason we brought this change, was
8 because the difficulty was the evidence and the data that
9 we had about this problem was about the agent letter, with
10 the capital A.

11 Now we're going to something that doesn't require
12 a City to make a legal statement about a company being an
13 agent. And we believed and everybody throughout this
14 entire discussion believed that would be easier. We have
15 no evidence it will be as difficult or harder. And we
16 don't want a bifurcated system.

17 So in discussing this initial transition matter
18 with the real Chuck White, we actually talked about this
19 date of March 31st. And in our conversation, both of us
20 thought that at least for their original discussion 90
21 days, if you can't get it in 90 days, this relaxed
22 designation letter, you probably can't get it at all. If
23 you can't get it at all, then you're asking to not comply,
24 to have a system where you don't have to comply. Some
25 people don't have to comply, and others do. So that's why

1 we have given a compliance period for non-complying agent
2 letters. Ones that don't say anything. We had no
3 standard at the time. We didn't understand how this
4 requirement was going to work, and now we do. And it was
5 because of this growing understanding that it created a
6 system.

7 CHAIRPERSON MARIN: Well, we have a situation
8 here. I mean, nobody can tell me how many letters we have
9 and how many of those will actually comply with the new
10 requirements that we have. This is a very interesting
11 challenge, because we asked these people to go in and get
12 these letters. We did not give them the very specifics.
13 They went in and got those letters that probably allowed
14 them to do a lot more than what we're asking them to do,
15 and that's why the Cities didn't want to give these
16 letters. Now they have the letters. Now we're going to
17 go back and say not really. They want a simpler letter.

18 There is a process, and it's not necessarily a
19 bifurcation. It's a grandfather. So we grandfather these
20 letters that they have, and there is a time limit. Isn't
21 there a time limit for these letters? I mean, these
22 letters are not for eternity.

23 ELECTRONIC WASTE RECYCLING SECTION SUPERVISOR
24 HUNTS: That's exactly the challenge. Because there was
25 no standard, the original emergency regulations had no

1 definition of what an agent was or any standard around
2 certifications or proof that some are letters or
3 designations of agenthood for a day or single event, some
4 span, half a decade into the future. These are all over
5 the map.

6 Program put on the website a sample of a letter
7 that could be used by jurisdictions to demonstrate that a
8 collector was acting on their behalf. It was a cumbersome
9 letter, but it captured the types of information Program
10 would look for in a proof. It did not have a regulatory
11 standard behind it.

12 CHAIRPERSON MARIN: Okay. What is the pleasure
13 of the Board?

14 BOARD MEMBER PEACE: I would like to add I really
15 appreciate all the input that we have heard here today.
16 But at the risk of unintended consequences and the need to
17 protect the integrity of this program so many other people
18 have brought up, we need to protect the integrity of this
19 program as it unfolds, because it is a new program. I
20 believe we need to adopt these emergency regulations today
21 as proposed, and we will work out the remaining concerns
22 as we go through the permanent reg process.

23 Staff has done an absolutely fabulous job. We've
24 been working 24/7. I thank them so much. And I thank
25 everyone, you know, all of our stakeholders who have given

1 their input and have been willing to compromise. But we
2 need to get on. We need to start the permanent regs. So
3 with that, I would like to move Resolution 2005-360.

4 CHAIRPERSON MARIN: What do we do with the
5 letters?

6 BOARD MEMBER PEACE: I think we've worked out
7 there is already a provision in there that said they have
8 until March 31st to get the new letter in.

9 CHAIRPERSON MARIN: Is that the pleasure of the
10 Board? Does everybody agree with that?

11 BOARD MEMBER MULÉ: No, I don't.

12 BOARD MEMBER PEACE: I think we can work this
13 out. This is more policy. I think we can work this out.

14 BRANCH MANAGER WILLD-WAGNER: I have one
15 suggestion. It's not a recommendation. It would be a
16 choice for the Board. Remember, this is only for those
17 non-compliant letters. The sample on our website, the
18 people that used that, they probably all meet the new
19 standards.

20 BOARD MEMBER MULÉ: Then I agree with that.

21 CHAIRPERSON MARIN: But we don't know how many
22 letters.

23 BOARD MEMBER MULÉ: If it's only for the
24 non-compliant letters, I agree with that.

25 CHAIRPERSON MARIN: Okay. All right. I don't

1 want to hear this again. You all agree now. Okay. I
2 don't want this to be brought again to this Board
3 regarding these non-compliant and compliant letters.
4 That's the will of the Board. That's fine. I have no
5 problem.

6 Is there a second to the motion?

7 Come on. Ms. Peace moved the entire regulation
8 package as presented by staff.

9 BOARD MEMBER PETERSEN: I'll second it.

10 CHAIRPERSON MARIN: Call the roll, please.

11 EXECUTIVE ASSISTANT BAKULICH: Mulé?

12 BOARD MEMBER MULÉ: Aye.

13 EXECUTIVE ASSISTANT BAKULICH: Peace?

14 BOARD MEMBER PEACE: Aye.

15 EXECUTIVE ASSISTANT BAKULICH: Petersen?

16 BOARD MEMBER PETERSEN: Aye.

17 EXECUTIVE ASSISTANT BAKULICH: Washington?

18 BOARD MEMBER WASHINGTON: Aye.

19 EXECUTIVE ASSISTANT BAKULICH: Marin?

20 CHAIRPERSON MARIN: Aye.

21 Okay. Good. Everybody, applause. Thank you.

22 Very well done. Okay. Now the process begins now for the
23 permanent regulations. Thank you so very much. Good work
24 everybody, really. Thank you so very much.

25 It's 12:15. We are going to go to lunch right

1 now. It's going to be a half-hour lunch for all of us and
2 then we'll come back and finish the agenda. We'll be back
3 at 12:45. Thank you.

4 (Thereupon a lunch recess was taken.)

5 CHAIRPERSON MARIN: We're going to start. I know
6 our colleagues will join us momentarily. But in the
7 meantime, we need to get going. Would you go ahead and
8 call the roll.

9 EXECUTIVE ASSISTANT BAKULICH: Mulé?

10 BOARD MEMBER MULÉ: Here.

11 EXECUTIVE ASSISTANT BAKULICH: Peace?

12 BOARD MEMBER PEACE: Here.

13 EXECUTIVE ASSISTANT BAKULICH: Petersen?

14 BOARD MEMBER PETERSEN: Here.

15 EXECUTIVE ASSISTANT BAKULICH: Washington?

16 Marin?

17 CHAIRPERSON MARIN: And I'm here. We do have a
18 quorum of the Board.

19 You're going to be the next one. Before you
20 start, let me just tell you, for all the speakers that
21 follow, you have less than three minutes or else. You can
22 take as much -- this does not include you, Mr. Lee. You
23 don't have to.

24 DEPUTY DIRECTOR LEE: I'll still abide by that,
25 Madam Chair.

1 CHAIRPERSON MARIN: You want to go with Special
2 Waste, Ms. Cheryl Peace. Can I have your report?

3 BOARD MEMBER PEACE: I did have my report
4 somewhere, and now I can't find it. We only had two
5 items.

6 CHAIRPERSON MARIN: One went on fiscal consent
7 and the other was on consent.

8 BOARD MEMBER PEACE: One was the Scope of Work
9 and Agreement to conduct a waste tire generation and
10 diversion study. That was fiscal, so we moved that to the
11 full Board.

12 And Item 4 was Consideration of Applicant
13 Eligibility Program Criteria and Evaluation Process for
14 the Waste Tire Enforcement Grant Program for Fiscal Years
15 05-06, 06-07. That was sent to the Board on consent with
16 one change. Under applicant eligibility, we added that in
17 order to qualify a jurisdiction that has 50 or more waste
18 tire sites in its jurisdiction.

19 And I did want to thank the City of San Diego,
20 because they do have one of our Waste Tire Enforcement
21 Grants, and we are working to try to get the County on
22 board, too, so we can have a partner.

23 CHAIRPERSON MARIN: Okay. So that leaves
24 Mr. Lee. You're going to present the item for fiscal
25 consent, Item Number 3.

1 DEPUTY DIRECTOR LEE: Yes, Madam Chair. Thank
2 you. And good afternoon, Board members. My name is Jim
3 Lee, Deputy Director of the Special Waste Division.

4 Board Item 3 is Consideration of Scope of Work
5 and Agreement to Conduct a Waste Tire Generation and
6 Diversion Study, Tire Recycling Management Fund Fiscal
7 Year 2005-06.

8 This item is to implement Board direction as
9 received during the Five-Year Plan review and approval
10 process completed in May of this year. The idea behind
11 this item is that the percentage of tire diversion and
12 recycling in the state is one of the most important
13 metrics in evaluation of the effectiveness of the Board's
14 tire management efforts. To ensure that we are using the
15 best available methodology and statistics, we're making
16 these determinations and we want to engage the assistance
17 of a third-party contractor to evaluate the current and
18 alternative evaluation processes. This item was heard by
19 the Special Waste Committee and recommended for consent.

20 Staff recommends the Board approve Resolution
21 2005-311.

22 CHAIRPERSON MARIN: I just want to point out -- I
23 might have missed it. Is this a one-year study? Do we
24 know that? I know it's quarterly reports but --

25 DEPUTY DIRECTOR LEE: Madam Chair, we commence in

1 February 2006. And apparently we're doing the wrap up by
2 March 2007.

3 CHAIRPERSON MARIN: It will be a year.

4 DEPUTY DIRECTOR LEE: Approximately a year.

5 CHAIRPERSON MARIN: Perfect. Okay. Are there
6 any questions?

7 BOARD MEMBER PEACE: If there aren't any
8 questions, I'd like to move Resolution 2005-311.

9 BOARD MEMBER MULÉ: Second.

10 CHAIRPERSON MARIN: Moved and seconded. Call the
11 roll, please.

12 EXECUTIVE ASSISTANT BAKULICH: Mulé?

13 BOARD MEMBER MULÉ: Aye.

14 EXECUTIVE ASSISTANT BAKULICH: Peace?

15 BOARD MEMBER PEACE: Aye.

16 EXECUTIVE ASSISTANT BAKULICH: Petersen?

17 BOARD MEMBER PETERSEN: Aye.

18 EXECUTIVE ASSISTANT BAKULICH: Washington?

19 Marin?

20 CHAIRPERSON MARIN: Aye. Okay.

21 Sustainability and Market Development Committee,
22 we had five items on the agenda. Thankfully, two went on
23 consent. Two items that had Resolutions, the Scope of
24 Work on consent and an agreement with contractor. Both of
25 them were on fiscal consent. And one item was moved to

1 the full Board for the recommendation. And we've already
2 dealt with that.

3 Mr. Schiavo.

4 DEPUTY DIRECTOR SCHIAVO: Pat Schiavo, Diversion,
5 Planning, and Local Assistance Division. I'd like to
6 thank you again for your acknowledgement earlier. That's
7 overly kind.

8 CHAIRPERSON MARIN: But true.

9 Let the record reflect that Mr. Washington did
10 join us.

11 Did you want to add your vote yes on the Item
12 Number 3 which was the fiscal consent item for the Special
13 Waste?

14 BOARD MEMBER WASHINGTON: Yes.

15 CHAIRPERSON MARIN: That will be added.

16 DEPUTY DIRECTOR SCHIAVO: We've been going
17 through this process for over a year now. At the July
18 meeting, we presented the item the Board wanted us to go
19 out for two more final workshops. We did one in Northern
20 California and one in Southern. We solicited written
21 comments. Some of those written comments we've
22 incorporated into the proposal to refine it. And there's
23 others we just did not include. We didn't feel they fit.

24 So I'll just briefly go over the concept. We've
25 gone over it many times publicly. The timing is

1 excellent. SB 1066 sunsets. So as a result of that,
2 after this year, everybody will essentially either be in
3 compliance at 50 percent or good faith effort or have a
4 rural reduction. I would anticipate there would only be a
5 couple jurisdictions that would be on compliance.
6 Ultimately, they would be in compliance anyway. It's a
7 perfect time to start.

8 The system for compliance is really similar to
9 now. The big difference would be changing the numeric
10 system and going to a countywide measurement system. A
11 countywide -- whatever the goal may be -- and I'll address
12 that in a minute. If jurisdictions within that county are
13 in compliance, we would do a very cursory review of the
14 program implementation efforts and look at them. If the
15 jurisdictions within that county are over whatever the
16 compliance goal may be, we would review their programs
17 much like we do that. So that wouldn't change at all.
18 When we talked about more detailed review, it's certainly
19 what we already do.

20 If jurisdictions choose to, they can still do
21 generation studies. If I were them or Board staff, I
22 would promote that still, because it gives you an
23 indicator of how you're spending your money and how
24 efficient you are. It doesn't have to be a down and dirty
25 detail expensive study, just a cursory one.

1 The Board will still make the adjustment factors
2 and disposal numbers by jurisdictions available. Some
3 City Councils want to see those numbers. They'll still be
4 there in the calculations. Will be readily available for
5 jurisdictions.

6 We're currently focusing on looking at a
7 structure. We have not established a goal. We have not
8 looked yet at how to adjust for growth in communities. We
9 feel like a consensus is the beginning of the process for
10 giving that detail. We're looking at the structure here.
11 You have to have a structure before you can determine the
12 goal. And that's the Legislature purview anyway.

13 I would like to address a few questions that we
14 have received. Just a handful. One of those is the
15 hierarchy is negatively affected. I believe that the
16 hierarchy is actually enhanced with this proposal. Right
17 now, people are reticent to try to capture how much source
18 reduction exists. It's expensive. It's frustrating. How
19 do you capture air, something that's not there? And as a
20 result in many of the base years, we don't see that much
21 source reduction claims because you just can't identify it
22 very well.

23 And if you perform source reduction or it's
24 occurring in your jurisdiction, that's going to be applied
25 in the disposal number anyway. Some people feel they

1 didn't have enough time to look at the proposal and
2 respond back to us regarding that. Again, I mentioned
3 this is really the beginning of the process. If they have
4 some key comments, they can present those to the
5 Legislature. Also this proposal has been out on the
6 streets since May and we've asked for comments repeatedly.

7 Another comment is disposal is not an indicator
8 of diversion. I'd like to reverse that statement. It's
9 really diversion is not an indicator of disposal.
10 Sometimes you can have a diversion study that's going to
11 artificially claim pretty high rates when the disposal
12 number is still increasing. And the key is the disposal
13 number.

14 With the disposal goal, with not knowing what the
15 goal is, how do you know if you have a good infrastructure
16 or have a good proposal. Well, I think you have to put
17 together a structure, then figure out what your goal is
18 going to be. I think many people want to know where they
19 sit on the goal and decide if it's a good proposal, if
20 they're in a favorable condition.

21 The Board should establish program criteria for
22 evaluating program implementation. Again, I felt I don't
23 know how you do. That Board right now looks at each
24 jurisdiction on its own merit. Each jurisdiction you look
25 at them side by side, they're unique and different for a

1 lot of different reasons. I think we'd be in a regs
2 process for the next ten years to make E-waste look pretty
3 simple in this process. And, you know, the main goal of
4 this whole process is to simplify things. What we've been
5 doing since 1995 first goal year has worked pretty
6 successfully in how the Board viewed program
7 implementation and staff has worked with jurisdictions.

8 And another, how do we account for high growth
9 areas? One of the things we do want to do is incorporate
10 languages into the good faith criteria to handle that,
11 although some people would still like to see some kind of
12 adjustment factors applied. And, you know, maybe that
13 works. But I'd really caution you in that delay in the
14 numeric process to where it ends up being like it is now,
15 where we're two years in arrears with our numbers versus
16 program implementation. There may be some methods. We
17 just have not heard those yet. And at a minimum, we would
18 like to incorporate those into the good faith effort
19 criteria.

20 There's other comments. Those are all included
21 within the Board item. That pretty much concludes my
22 presentation. What we'd like to do -- there's no
23 Resolution attached to this. Just the report over to the
24 Legislature.

25 CHAIRPERSON MARIN: Thank you, Mr. Schiavo.

1 Are there any people that wish to speak on Item

2 6?

3 Just for the record, what I have, and I'm sure
4 all my colleagues have the letters related to this
5 particular item, the City of La Quinta has come in with
6 their comments. I received letters from Contra Costa
7 County as well as San Luis Obispo County, and you've
8 basically articulated their concerns as well. I think
9 that we can not overemphasize this is a concept, which we
10 hope it is to make it simpler, not more difficult. And it
11 is just a concept.

12 So let me call a few people that -- I hope you
13 are Dave Ault. Coby, go ahead. Coby, go first. Coby
14 Skye from L.A. County Department of Public Works.

15 MR. SKYE: Thank you, Madam Chair.

16 I just wanted to say first of all that I really
17 appreciate the Board's efforts on this. I think it is
18 definitely a step in the right direction. We do want to
19 make it simpler. We do want to focus more on the program.
20 We've been saying this for many years and especially
21 coming from a region with 89 jurisdictions in L.A. County,
22 very complex overlapping political goals and boundaries
23 and a very difficult time in documenting the mathematical
24 compliance.

25 We do have a few small concerns, and I think

1 those have been described. First of all, the growth is a
2 major issue, especially for incorporated areas where we're
3 seeing huge growth in making a note of it in the base year
4 or in our reporting documents. It may not be enough to
5 account for that.

6 The other issue is that, of course, disposal will
7 be measured on a countywide basis. However, it's up to
8 each individual jurisdiction to note what the concerns
9 are. A particular jurisdiction in L.A. County may be in a
10 county that's growing very quickly, but the growth may not
11 be in that particular jurisdiction. So you get into a
12 process where you're assigning blame and pointing fingers.
13 We want to move away from that. We hope that some of
14 those concerns can be addressed just as a policy to have
15 some kind of comments incorporated into the proposal and
16 move forward and to identify that unless growth is
17 addressed somehow, this is going to be an increase in goal
18 every year. And that's going to be very difficult
19 especially for jurisdictions. We all acknowledge the low
20 hanging fruit has been already picked.

21 So those are my comments. And I very much
22 appreciate all of your work.

23 CHAIRPERSON MARIN: Thank you, Mr. Skye. We
24 really appreciate your comments. And believe me, those
25 items have been taken into consideration.

1 I will just remind people we're here and you have
2 three minutes to speak or else. No, you don't. Mr. --

3 MR. AULT: I enjoy being part of staff.

4 CHAIRPERSON MARIN: Dave Ault from Republic
5 Services.

6 MR. AULT: Republic Services of California.

7 I'll be very brief. Again, my concern, and I
8 shared this with Pat is that -- by the way, on behalf of
9 the haulers, we will miss Pat Schiavo. He's been a real
10 gentleman and a real professional, a person we feel very
11 confident dealing with. We appreciate it very much.

12 As an old veteran of the AB 2202 group and being
13 involved in this waste diversion since day one, I support
14 this concept. I think it's important that we move away
15 from what we're doing now. When you talk to your cities
16 right now, jurisdictions, the last approved disposal
17 reporting numbers we have are from '02, and we're six
18 weeks away from '06. This is an improvement.

19 But the one issue I have, and I'll try to be
20 brief and not redundant, we have to address growth,
21 because I think that most jurisdictions out there will
22 embrace this concept if you can include that. And you
23 need to do it in a way it's done prior to -- this is
24 important -- prior to your biannual review. Because I
25 think it's incumbent upon the jurisdictions to make an

1 audible and documented case for the growth and tonnage
2 through residential growth or whatever is reviewed by
3 staff. And then if the diversion rate is determined to be
4 50 percent, then knock 50 percent off that and pass that
5 50 percent of the growth on to the base year of tonnage
6 allotment to the landfill.

7 If that's done prior to your biennial review,
8 that number can be added to the jurisdictions within the
9 county. They'll flow through to the county number. And
10 you will not have the problem, as the previous speaker
11 said, of slipping backwards each year or trying to hit a
12 target that's always behind you. That's a key thing. If
13 you can make this incumbent upon the jurisdictions to
14 submit that request to staff, for example, by December
15 31st of the year prior to the biennial review, staff could
16 have 30, 60 days to review those, roll those into your
17 numbers, and then you'll be looking at true Tier 1, 2, 3,
18 compliance based upon real numbers, actual time. That's
19 the one recommendation I make for you. Thank you?

20 CHAIRPERSON MARIN: Thank you, Mr. Ault.

21 Next person is Christine Knapp, County of Orange.
22 Something to do with growth, I suspect.

23 MS. KNAPP: Yes. Good afternoon. First of all,
24 I would like to take this opportunity to thank Board staff
25 for their inclusive process, the comprehensive workshops

1 and outreach that was given with this proposal. All Board
2 staff did a really great job in answering questions and
3 really listening to each of the jurisdiction's input. So
4 we really appreciate that.

5 The County of Orange has no objections to the
6 concept of going to a countywide number. Of course,
7 that's very self-serving of me, because my unincorporated
8 area is sitting somewhere in the 30s. So I get to ride
9 everybody else's coattails and they can hate me. But
10 other than that, it's a good concept. We don't have a
11 problem with it.

12 The growth issue for the County of Orange comes
13 upon the two military base closures we have and huge
14 developments from Lennar Homes, of which I'm sure most of
15 the Board is already aware.

16 So, again, I would echo the comments of all the
17 other speakers having to do with growth. The focus on the
18 programs we very much would appreciate. And if anything
19 can be done to accelerate the incorporation of or
20 inclusion of alternative technologies as counting more
21 towards that, I think it would help incentivize that and
22 move that along. And I think that we would all be better
23 for it. Thank you.

24 CHAIRPERSON MARIN: Thank you, Ms. Knapp.

25 Next one is John Michael Huls from Huls

1 Environmental.

2 BOARD MEMBER MULÉ: He's not here. He had to
3 leave.

4 CHAIRPERSON MARIN: Well, I'm sure he agrees with
5 everything that we have put forth.

6 BOARD MEMBER MULÉ: He expressed his support.

7 CHAIRPERSON MARIN: Mr. George Larson. Are you
8 representing Mr. White as well?

9 MR. LARSON: Yes, I am. And the many wonderful
10 divisions of Waste Management, Inc.

11 I'll be very quick. I just want to pass on some
12 comments that we need to support that the Board has done a
13 wonderful job. Pat is really an ambassador towards good
14 policy. And if I can digress for a minute. He wasn't in
15 the room before. But I need to have my personal comments
16 about Pat, too, and our dear friends. He was my best man
17 at my wedding. We started -- I started as an unpaid
18 graduate student assistant at this Board in 1977. He came
19 in '78. We worked together for many years. I won't tell
20 you what you we did on the road trips when we went to
21 San Diego. It doesn't happen anymore.

22 BOARD MEMBER PETERSEN: I know.

23 MR. LARSON: And we had the opportunity to work
24 with the new Board Member Gary Petersen who would always
25 forget his wallet when we went to dinner.

1 BOARD MEMBER PETERSEN: Worked every time.

2 MR. LARSON: But anyway, it's time to get this
3 train out of the station. As you all know the history of
4 this program, we've gone through numbers of iterations.
5 We got to 50 percent. I encourage you to look at
6 technology, to not exclude conversion technology and
7 energy recovery and any other environmentally sound
8 applications of science and technology and the point about
9 growth, too. So on behalf of Waste Management, let's get
10 this started. Thank you.

11 CHAIRPERSON MARIN: Thank you. And last but not
12 least, Mr. Evan Edgar again.

13 MR. EDGAR: Chairman and Board members, Evan
14 Edgar representing the California Refuse Removal Council.
15 We do appreciate the streamlined approach of getting rid
16 of adjustment factors, be more responsive so we can get
17 back in front of the Waste Board for compliance and
18 enforcement.

19 We like the fact that the reporting be every
20 other year versus every year. There's a lot of good
21 features with regards to AB 939 accounting where we're
22 counting the tons and not the beans. We like that. But
23 one of the aspects of it is going countywide is that
24 people can do that now, and they are doing it now, where
25 counties are getting along with the cities where there's

1 unity in the community. There's 137 jurisdictions with 26
2 regional agencies where this is working, and it's working
3 quite well. The countywide system does work where people
4 get along.

5 While some cities and counties everybody doesn't
6 get along, there's a tale of two cities. There's one city
7 that may be direct haul to the landfill and the franchise.
8 The other city could have a MRF making the numbers. And
9 the tale of two cities under the countywide system, the
10 city enforcement process would be lost.

11 It's not until recently we've seen Tier 3 and
12 Tier 4, which were good features which were added in this
13 last round I saw earlier this week. So those concepts of
14 adding Tier 3 and Tier 4 enforcements so the countywide
15 system can get to the cities where the tale of two cities
16 goes direct haul to landfill as needed. So that concept
17 and the devil's in the details, I'd love to see those
18 concepts added even further as this report moves along.

19 So without enforcement, I would be glad and not
20 mad, but something like that. We need enforcement in
21 order to make this work. So with a homogenized countywide
22 system, things could get lost. So we're cautious there,
23 but we like to see the system before without the beans and
24 with the tons. Thank you.

25 CHAIRPERSON MARIN: Thank you, Evan.

1 Anybody else wishes to address this item?

2 Okay. Because of it may go forward and it's just
3 a concept. I cannot overemphasize that enough. Okay.

4 Actually, I should thank you. No, I should thank
5 you, because she has worked so hard on this. Well, she
6 wants to thank staff.

7 BOARD MEMBER MULÉ: I want to personally thank
8 staff and Pat for all of your work on this. This has been
9 a long process. I know it started before I came to the
10 Board. But I just want you to know how much I appreciate
11 all of your work, not only on this, but on everything that
12 you've done with the jurisdictions while I've been here as
13 a Board member. And you've assisted a number of
14 jurisdictions that were in trouble. And, again, I want to
15 personally thank you for all as well as for all of your
16 work on this. So thank you.

17 BOARD MEMBER PEACE: Ditto.

18 CHAIRPERSON MARIN: Yeah. Thank you so very
19 much.

20 Okay. That leads us to Item Number 8, John
21 Smith, you're going to make a presentation.

22 ACTING DEPUTY DIRECTOR SMITH: Madam Chair and
23 Board members, this is the Consideration of the Scope of
24 Work and Agreement for the 2006 Emerging Technology Forum.
25 So this item relates to the development of that Scope of

1 Work and selection of that contractor, which will be
2 Sacramento State. The contractor will help staff in
3 putting on this Emerging Technologies Forum. The last one
4 was held in 2001. This was placed on fiscal consent by
5 the Sustainability and Markets Committee. And staff
6 recommends the Board approve Option Number 1, approving
7 the Scope of Work as Resolution Revised 2005-313 and the
8 agreement Resolution Number 2005-316. If you have any
9 questions.

10 CHAIRPERSON MARIN: Thank you. No, John. Thank
11 you so very much.

12 Is there a motion?

13 BOARD MEMBER PEACE: I thought we had already
14 approved Resolution Number 313. But if we haven't, I'll
15 go ahead and move it again. I'd like to move Resolution
16 2005-313 and 2005-316.

17 CHAIRPERSON MARIN: Thank you. I think it just
18 makes it cleaner. Okay.

19 BOARD MEMBER MULÉ: Second.

20 CHAIRPERSON MARIN: And Ms. Mulé seconded. Ms.
21 Peace moved it and Ms. Mulé seconded.

22 Please call the roll.

23 EXECUTIVE ASSISTANT BAKULICH: Mulé?

24 BOARD MEMBER MULÉ: Aye.

25 EXECUTIVE ASSISTANT BAKULICH: Peace?

1 BOARD MEMBER PEACE: Aye.

2 EXECUTIVE ASSISTANT BAKULICH: Petersen?

3 BOARD MEMBER PETERSEN: Aye.

4 EXECUTIVE ASSISTANT BAKULICH: Washington?

5 BOARD MEMBER WASHINGTON: Aye.

6 EXECUTIVE ASSISTANT BAKULICH: Marin?

7 CHAIRPERSON MARIN: Aye. Next item.

8 ACTING DEPUTY DIRECTOR SMITH: Number 9 is

9 another contract, Consideration of Scope of Work and
10 Agreement for Emission Testing of Solid Waste Residues.

11 This item relates to the development of a Scope of Work
12 and proposed agreement with Santa Barbara County Air
13 Pollution Control District to test emissions of solid
14 waste residues at a number of waste conversion technology
15 facilities out of state, since there are none operating in
16 state.

17 This item was heard at the Sustainability and
18 Markets Committee, and they voted unanimously to place
19 this on fiscal consent. Staff recommends approval of
20 Option 1 and 4, and approve revised Resolution 2005-314
21 for the Scope of Work and Resolution 2005-317 approving
22 the contractor.

23 CHAIRPERSON MARIN: It's the same thing as the
24 other, on the Scope of Work. That's not the fiscal
25 consent. It's the contract. But this will be fine.

1 Is there a motion to that?

2 BOARD MEMBER PEACE: I'd like to move Resolution
3 Number 314 Revised and -- 2005-314 Revised and 2005-317
4 Revised.

5 CHAIRPERSON MARIN: Is there a second?

6 BOARD MEMBER MULÉ: Second.

7 CHAIRPERSON MARIN: Ms. Mulé. Okay.

8 Call the roll, please.

9 EXECUTIVE ASSISTANT BAKULICH: Mulé?

10 BOARD MEMBER MULÉ: Aye.

11 EXECUTIVE ASSISTANT BAKULICH: Peace?

12 BOARD MEMBER PEACE: Aye.

13 EXECUTIVE ASSISTANT BAKULICH: Petersen?

14 BOARD MEMBER PETERSEN: Aye.

15 EXECUTIVE ASSISTANT BAKULICH: Washington?

16 BOARD MEMBER WASHINGTON: Aye.

17 EXECUTIVE ASSISTANT BAKULICH: Marin?

18 CHAIRPERSON MARIN: Aye.

19 Okay. Thank you, Mr. Smith.

20 Okay. Judy, you're going to tell us -- you're
21 going to give us a brief update as to how we're doing the
22 Governor's Executive Order S-3-05 on climate change.

23 BRANCH MANAGER FRIEDMAN: Good afternoon, Madam
24 Chair. With your indulgence, I'm going to do this from
25 the seat here, because I don't think you can see me behind

1 the podium, being vertically challenged. So we decided it
2 would be better if I did it from here so everybody can see
3 me.

4 CHAIRPERSON MARIN: Good call.

5 (Thereupon an overhead presentation was
6 presented as follows.)

7 BRANCH MANAGER FRIEDMAN: You may recall at
8 September's Board meeting I provided an overview of global
9 warming and climate change issues and our involvement in
10 the Climate Action Team. Today, I'm going to focus a
11 little bit more on the link between waste reduction,
12 recycling, and greenhouse gas reductions. And that
13 provides a good foundation for the strategies that we're
14 pursuing under the Climate Action Team.

15 --o0o--

16 BRANCH MANAGER FRIEDMAN: Just really briefly to
17 go over, the Executive Order established statewide
18 greenhouse gas reduction targets by 2010 to reduce to 2000
19 emission levels by 2020 reduced to 1990 emission levels
20 and by 2050 reduced to 80 percent below 1990 levels. And
21 I want to remind everybody that California is the ninth
22 largest of the world's greenhouse gas emitters.

23 --o0o--

24 BRANCH MANAGER FRIEDMAN: The Executive Order
25 also established a Climate Action Team. And Madam Chair,

1 you are on that team, as you know. And there are a number
2 of other agencies on that team as well. It is led by Dr.
3 Lloyd. And the Climate Action Team is evaluating and
4 recommending strategies to meet targets, a number of other
5 things, and the report is being prepared to the Governor
6 and Legislature in January. And there will be biannual
7 reports thereafter. We'll bring updated information and
8 measurement of our progress.

9 --o0o--

10 BRANCH MANAGER FRIEDMAN: So I'm going to skip
11 right --

12 --o0o--

13 BRANCH MANAGER FRIEDMAN: -- to the strategies
14 that we actually are --

15 --o0o--

16 BRANCH MANAGER FRIEDMAN: -- required to evaluate
17 and implement under the Climate Action Team. And these
18 strategies are as follows. We are to achieve 50 percent
19 statewide recycling; landfill methane capture; and zero
20 waste, high recycling. There is a correlation, as I
21 mentioned, between recycling and greenhouse gas reduction.
22 In general terms, recycling and waste prevention results
23 in reduction of greenhouse gasses because it avoids
24 materials extraction and production processes. And also
25 reduces methane production at landfills because materials

1 aren't going to landfills.

2 On September 23rd of this year, Mr. Henry Ferland
3 with U.S. EPA's Climate and Waste Program spoke here at
4 CalEPA, actually, up in Sacramento on that link.
5 Unfortunately, many folks were unable to attend, so we
6 thought it would be a good idea to recap some of what
7 Mr. Ferland spoke about as it provides a solid foundation
8 for why we are pursuing the strategies we have been
9 assigned to by the Climate Action Team.

10 Just a little bit about Mr. Ferland's background.
11 He is the coordinator of EPA's Office of Solid Waste
12 Climate and Waste Program and has been since 1992 and has
13 worked for the U.S. EPA in a variety of roles. For the
14 past six years, he has served as the program coordinator
15 for EPA's Climate and Waste Team working on research and
16 program outreach materials that educate on the link
17 between climate change and waste management.

18 --o0o--

19 BRANCH MANAGER FRIEDMAN: So Mr. Ferland was very
20 kind enough to provide me with all the slides that he had
21 presented at CalEPA back in September and gave me generous
22 lead to use them as I saw fit. So I thank him for that.
23 That's what I'm going to do now is go over his slides.

24 One thing, there is a link between, as I said,
25 waste reduction and climate protection. And EPA's Climate

1 and Waste Program's mission is to identify and address
2 those linkages. They also quantified the greenhouse gas
3 and energy impacts of recycling, but this requires a life
4 cycle approach. And basically, the bottom line is
5 recycling can significantly reduce greenhouse gas
6 emissions and conserve energy.

7 Before I do go into too much more detail, there
8 are some limitations as with all models and life cycle
9 approaches, there are some limitations. And Mr. Ferland
10 readily admits that. In particular, specifically related
11 to upstream emissions for the waste sector, this means it
12 is difficult to estimate, for instance, soil carbon
13 sequestration benefits from composting. And this problem
14 is due to the lack of life cycle analysis data for waste
15 sector alternative uses such as composting or emerging
16 technologies, et cetera. So there are some limitations to
17 his model. But nevertheless, it's providing very good
18 background information for us to use to go forward.

19 --o0o--

20 BRANCH MANAGER FRIEDMAN: So let's go over some
21 of the climate change benefits. There are numerous
22 benefits both upstream and downstream. Upstream benefits
23 reduce carbon dioxide emissions from energy use in the
24 material acquisition and manufacturing stages; increase
25 carbon storage in forests; increase carbon storage in

1 soils where organics are composted and applied to soil.
2 Downstream benefits are avoiding landfill methane
3 emissions; avoiding carbon dioxide emissions from
4 combustion. For a full analysis on this, you could look
5 at solid waste management and greenhouse gas U.S. EPA
6 report, which is currently I believe undergoing review.

7 --o0o--

8 BRANCH MANAGER FRIEDMAN: So this is a schematic
9 of the link between waste management and greenhouse gas
10 emission. Management options either increase or decrease
11 greenhouse gasses accordingly. For example, if you look
12 at extraction, you can see that greenhouse gasses are
13 emitted during the harvesting of trees and the extraction
14 and transport of raw materials. Through waste prevention
15 and recycling, you delay the need to extract some raw
16 materials, lowering greenhouse gasses emitted during
17 extraction.

18 One thing I want to point out about this
19 schematic is that Mr. Ferland is focusing primarily on
20 recycling and the extraction or recovery of recyclable
21 materials from the waste stream. Since the EPA is trying
22 to improve the national recycling rate, which is currently
23 estimated at 30 percent, and they have a target of 35
24 percent by 2008, so that, of course, is their focus. And
25 again, the schematic doesn't necessarily accurately

1 represent or portray California's waste scenario, because
2 combustion does not figure prominently in California as
3 you know. And California also includes composting and the
4 potential for other organic technologies which are not
5 represented here, both of which also have greenhouse gas
6 reduction benefits. So this is a good example of the
7 limitation of their model, but never the less it's still
8 very valuable for our work.

9 --o0o--

10 BRANCH MANAGER FRIEDMAN: Climate benefits
11 continued. Waste is an important source of greenhouse gas
12 emissions. It accounts for approximately 3 percent of
13 total U.S. greenhouse gas emissions. Waste related
14 actions result in emission reduction benefits that are
15 realized across multiple industrial sectors. By
16 recycling, we reduce the need to harvest virgin materials,
17 simplify the manufacturing processes, and minimize waste
18 delivery to landfill. I think the next --

19 --o0o--

20 BRANCH MANAGER FRIEDMAN: -- slide illustrates
21 that pretty well, showing the life cycle approach. And in
22 the top line, scenario one is sort of businesses as usual
23 where an office throws away 100 tons of office paper.
24 Maybe not business as usual in most communities in
25 California. But let's just say base case.

1 And scenario two, if the choice is to recycle
2 half that paper, the result -- the net greenhouse gas
3 emissions savings is 65 metric tons carbon equivalent. So
4 the first case you have an emission level of 62 metric
5 tons of carbon equivalent, but by recycling half that
6 waste, you actually end up with a net reduction.

7 Now I want to point out it's not a linear
8 relationship. These things are based on a life cycle
9 analysis, and it's an exponential relationship. So trying
10 to figure out the math gets complicated. I wouldn't
11 invite you to do that. But I suggest it illustrates how
12 across a life cycle you really can achieve greenhouse gas
13 reductions in all these areas.

14 --o0o--

15 BRANCH MANAGER FRIEDMAN: Energy benefits. The
16 main point here is greenhouse gas emissions and energy are
17 related, and strategies aimed at reducing greenhouse gas
18 emissions usually provide significant energy savings as
19 well. Recycling also saves the intrinsic energy value of
20 the material resource. So you decrease the demand for the
21 raw materials. You reduce the energy associated with raw
22 material extraction. You reduce the amount of energy
23 needed for manufacturing and transportation, and you can
24 have energy production from landfill gas and waste to
25 energy.

1 --o0o--

2 BRANCH MANAGER FRIEDMAN: I think this slide here
3 is a really good illustration of the energy values of
4 various recycled materials. Note aluminum manufacturing
5 is one of the most energy intensive; and plastics, which
6 is one of our fastest growing waste categories, also has a
7 high energy savings per BTU recycled. You can see by
8 recycling these materials, you're also enhancing energy
9 savings along with the greenhouse gas reductions.

10 --o0o--

11 BRANCH MANAGER FRIEDMAN: The EPA has outreach
12 programs and tools, and there are publications and
13 outreach materials available at the website listed here.
14 Three tools that I'm going to go over very briefly that we
15 have been using are the WARM, recon, and DGC models. And
16 I'll explain what those lovely acronyms mean.

17

18 BRANCH MANAGER FRIEDMAN: First of all, the WARM,
19 or waste reduction model, this assesses greenhouse gas and
20 energy impacts at waste reduction activities. It can be
21 tailored to individual needs, so it accepts specific user
22 inputs. It's available online. This is the calculator
23 that we have used for some of our climate change work for
24 our projection. We've also checked it against other
25 calculators, and our projections match pretty well. So

1 it's been very useful.

2 --o0o--

3 BRANCH MANAGER FRIEDMAN: The second tool is the
4 recycled content tool or recon, and this estimates
5 greenhouse gas and energy benefits of increasing recycled
6 content. Again, it can be tailored to individual use and
7 is available online. So, for example, if you increase the
8 recycled content of a product, then you can see what the
9 greenhouse gas benefits of that product will be.

10 --o0o--

11 BRANCH MANAGER FRIEDMAN: Finally, there's a
12 durable goods calculator. This assesses greenhouse gas
13 emission benefits of different disposal methods for 14
14 durable goods such as refrigerators, washers, dryers, et
15 cetera. It can be tailored to individual needs.

16 Now, the reason why they have a separate model
17 for this is because these products are composites. They
18 don't neatly fit into a specific material category that
19 you might have seen in the WARM model. Therefore, the EPA
20 has developed a calculator just for these durable goods,
21 and it's based on their research and life cycle analysis
22 of those goods following with upstream and downstream. So
23 it's a pretty useful tool for composite materials.

24 --o0o--

25 BRANCH MANAGER FRIEDMAN: To summarize

1 Mr. Ferland's presentation, recycling offers significant
2 energy and greenhouse gas benefits. The EPA suite of
3 tools can help quantify and communicate these benefits.
4 It can incorporate greenhouse gas and energy impacts into
5 decision making processes, communicate greenhouse gas
6 emission reductions and energy savings to the public, use
7 greenhouse gas and energy impacts to help sell recycling
8 programs in new and important ways, and incorporate
9 improved materials management into the climate action
10 plans at the municipal and state level.

11 So that's a good segue into how this fits into
12 our Climate Change project. Again to recap, we've been
13 assigned the responsibility for assessing and implementing
14 three strategies. And the information that Mr. Ferland
15 has provided explains why I think -- because it provides
16 the link and explains very well why we are focusing on
17 these areas. Just to recap, achieve 50 percent statewide
18 recycling, zero waste high recycling, and landfill methane
19 capture.

20 --o0o--

21 BRANCH MANAGER FRIEDMAN: Just in terms of the
22 Climate Action Team's next steps, we're going to continue
23 to evaluate potential strategies and implementation
24 options, continue open public process. A draft report is
25 expected to be released early December. The final Climate

1 Action Team public meeting is anticipated for
2 December 13th. And the report is expected to go to the
3 Governor in January of 2006.

4 --o0o--

5 BRANCH MANAGER FRIEDMAN: And that concludes my
6 presentation. And I'd be happy to answer any questions
7 that you might have.

8 CHAIRPERSON MARIN: Thank you, Judy. I cannot
9 thank Judy enough. She has done a remarkable job. I
10 think she's one of the very few people that stands out in
11 the Climate Action Team. She's always ready with any task
12 that is before the group, and you make us all very proud.
13 Thank you for all the hard work. It's very difficult to
14 quantify all of what is being asked of us. But you do a
15 great job. Your staff is amazing. So thank you for all
16 your work.

17 Does anybody have any questions for Judy?

18 Okay. Thank you, Judy.

19 BRANCH MANAGER FRIEDMAN: I would like to thank
20 you for your leadership and support and also Mark Leary
21 for his as well on the Climate Action Group. It's been
22 outstanding.

23 CHAIRPERSON MARIN: Just hold on one second.
24 Evan Edgar wanted to say a couple words regarding this. I
25 know you've been participating judiciously in all of these

1 meetings.

2 MR. EDGAR: Thank you. I'm Evan Edgar from the
3 California Refuse Removal Council. And we realize that
4 greenhouse gas is important to the solid waste industry
5 where 40 percent of pollution will come from the solid
6 waste industry by 2010. You are the low hanging fruit
7 from the landfills and from the programs. And there's a
8 lot of links there.

9 If you look at AB 939, to the renewable energy
10 soil standard, to greenhouse gas reduction as well as
11 ethynyl substitution and transportation policy, we have
12 four links. And by linking those all together in the
13 middle of the chart is conversion technologies. Tomorrow
14 is a big day where defining conversion technologies have
15 taken this waste material and are making an energy product
16 out of it towards a waste-to-energy independence policy
17 whereby we are the key.

18 The solid waste industry realizes there's over 26
19 million tons of organic materials being disposed of today;
20 3.9 million tons of lumber; 2.6 million tons of green
21 waste ADC; 5.8 million tons of food waste; 8.6 million
22 tons of paper. That is a lot of greenhouse gas reduction.
23 We can sell those credits for up to \$20 a ton per metric
24 ton.

25 We have the RPS standard where we can make

1 renewable power out of the organic matter, use anaerobic
2 digestion, which is composting which is 100 percent
3 credit. And hopefully Fernando will talk about that
4 tomorrow, that anaerobic digestion is composting, is
5 conversion technology, and is 100 percent. That's a way
6 to get the RPS standard, capture greenhouse gasses, as
7 well as diverting solid waste. And that's a winner.

8 So there's a lot of links there, a lot of policy
9 linkage. We realize the solid waste industry has to step
10 up and do our part, and we're looking at different
11 conversion technologies to collocate at our MRFs in order
12 to answer the questions of the future here. Thank you.

13 CHAIRPERSON MARIN: Thank you, Evan. I had not
14 seen this. This is amazing. This is very good. I'm
15 going to study it and make sure there are no mistakes in
16 there.

17 MR. EDGAR: Almost too much information.

18 CHAIRPERSON MARIN: Thank you, Evan. Thank you
19 for your leadership.

20 Thank you, Judy.

21 Again, I feel really good with this mandate from
22 the Governor. You know, he gave us very clear direction
23 and the Secretary took it head on, brought in all of his
24 people, a lot of work. And thank you for your
25 participation in it.

1 BRANCH MANAGER FRIEDMAN: Absolutely. And it's
2 really nice to see all parties coming forward with excited
3 and interested input. So I think it's great.

4 CHAIRPERSON MARIN: Okay. That leads us to
5 Permit and Enforcement. Ms. Mulé.

6 BOARD MEMBER MULÉ: Thank you, Madam Chair.

7 In our Committee, we heard two permit items.
8 Both went on consent. Item 1 as we all know was pulled
9 today, so we'll discuss that shortly. The third item we
10 did discuss was discussion and request for rulemaking and
11 direction to notice AB 1497 regulations. And so the
12 Committee had decided to move that forward. Well,
13 actually, to work with the industry on just some final
14 tweaks and then get that out for 60-day notice.

15 And that concludes my report, Madam Chair.

16 CHAIRPERSON MARIN: Thank you, Ms. Mulé.

17 And that brings us then -- Howard, do you want to
18 make a statement or you're going to present Item 11?

19 DEPUTY DIRECTOR LEVENSON: I'll be presenting it.

20 Good afternoon, Board members. Howard Levenson
21 with Permitting and Enforcement Division. Can you hear me
22 okay?

23 BOARD MEMBER MULÉ: Yes. Thank you.

24 DEPUTY DIRECTOR LEVENSON: Just as a follow-up to
25 Ms. Mulé's report, I do want to indicate we are meeting

1 with stakeholders tomorrow on the first step towards
2 looking at the list issues related to the 1497 rulemaking.
3 So we're on track on that.

4 The Agenda Item 11 is Consideration of Revised
5 Full Solid Waste Facilities Permit Transfer/Processing
6 Station for the North Area Recovery Station in Sacramento
7 County. I will make a short presentation of some of the
8 salient information and give you a recommendation. I know
9 there are a number of issues that have been raised about
10 this item.

11 First of all, the proposed revised permit is to
12 allow the following. It would increase traffic volume
13 from 834 to 1300 vehicles per day, and it would increase
14 tonnage from 1800 to 2400 tons per day.

15 The facility, as you know, was operating under a
16 stipulated agreement on July 1st through September 30th
17 this year. The stipulated agreement allowed the facility
18 to temporarily increase the maximum vehicle limit, and it
19 did expire on September 30th. As an aside on that, we
20 have indicated to the Board that we will be initiating a
21 rulemaking to try to narrow the definition of a temporary
22 emergency under those regulations and clarify the
23 authority of the Executive Director to revoke or suspend
24 the stipulated agreement when we all feel it is not in
25 line with the intent of that regulatory package. So that

1 will be starting shortly, and we'll certainly be bringing
2 that back to the Committee and Board for further
3 direction. That will be a narrow package to try to fix
4 that one gap.

5 Now, the LEA initially submitted a proposed
6 revised permit to increase traffic for the site on August
7 5th. We had a number of concerns at the staff level and
8 we did discuss those with the LEA, the Sacramento County
9 Planning Department, the operators, and County Council
10 particularly regarding the adequacy of the supporting
11 environmental documentation.

12 On September 12th, the LEA withdrew the proposed
13 permit so they could have more time for additional review.
14 They did conduct that environmental review, and on October
15 27th the Sacramento County Environmental Management
16 Department adopted a negative declaration. So the CEQA
17 has been completed.

18 Now prior to that, in August and September, we
19 did, as Board staff, conduct a number of inspections to
20 see if the facility was in compliance with State Minimum
21 Standards. And as noted in your agenda item, we did find
22 a number of violations both in the August inspection and
23 in the September inspection.

24 We did conduct another inspection on October 25th
25 and found the site was in compliance with all of the State

1 Minimum Standards and with the permit requirements. So,
2 therefore, on the basis of those findings, and the permit
3 meeting the requirements, we are recommending Option 1,
4 concurrence in the issuance of the revised proposed permit
5 and your adoption of Resolution 2005-306 revised.

6 I'd be happy to answer any questions, and I know
7 in the audience is Mr. David Pelser from the county as
8 well.

9 CHAIRPERSON MARIN: Yeah. Thank you. I will
10 call upon him.

11 I want to for the record, we did receive the
12 letter from Mr. Smith where he is raising a
13 technicality -- as far as I was concerned, a technicality
14 issue in so far as the date in which it came to the Board
15 and therefore we do not necessarily have to act on this.
16 Do you remember that letter? Can you clearly state why
17 that is not the case?

18 DEPUTY DIRECTOR LEVENSON: I think so. There was
19 a letter that came in this morning. I did see it on one
20 Board member's blackbury. So I don't have it in front of
21 me. But as I recall the letter, he specifically was
22 talking about the lack of a hearing being held after the
23 proposed -- or the revised proposed permit was submitted
24 on November 2nd.

25 CHAIRPERSON MARIN: Right.

1 DEPUTY DIRECTOR LEVENSON: However, the AB 1497
2 requirements pertain to the solid waste facility
3 application, not the actual proposed permit. The LEA has
4 to hold AB 1497 hearings within 60 days after receiving
5 the application. And that was received -- I can't
6 remember exactly when. But it was received months ago,
7 and the LEA did have the AB 1497 hearing on August 9th.

8 So as far as staff is concerned, the LEA has
9 submitted an appropriate permit, has made the findings on
10 CEQA. The proposed permit that we received on
11 November 2nd, the only change in that from what was
12 submitted before was to in fact incorporate reference to
13 that adopted negative declaration, and make the finding
14 that the permit was consistent with the negative
15 declaration.

16 CHAIRPERSON MARIN: So for my own edification, we
17 can receive an application albeit incomplete, but by
18 the -- and that gets the clock running. But when it comes
19 to the Board for action, the entire application must be
20 then complete.

21 DEPUTY DIRECTOR LEVENSON: That's correct, Madam
22 Chair. And we often have incomplete applications or
23 permits that aren't totally filled out. We may not have
24 the financial assurance findings that have been made by
25 our staff. In this case the environmental review was

1 still going on, which is something our regulations allow.
2 So the clock starts. If it's not ready by the time we
3 come to you at the Committee, but we will make a
4 recommendation either we're anticipating that everything
5 will be worked out, so we'll say concur assuming things
6 are worked out in the next week, or we will say we
7 recommend denial. And we've done that more so in the last
8 --

9 CHAIRPERSON MARIN: I don't know whether this is
10 being webcast. If it is being webcast -- it is. Okay.
11 I'm sure Mr. Smith might be listening to us. And,
12 therefore, I wanted to have that specifically on the
13 record just in case he is listening. But clearly for
14 everybody's edification.

15 So thank you, Mr. Howard Levenson.

16 Let me call upon Mr. David Pelser from the County
17 of Sacramento. Thank you very much for being here.

18 MR. PELSER: Thank you, Madam Chair and members
19 of the Board. Hello, again. I'm David Pelser,
20 Director --

21 CHAIRPERSON MARIN: We did receive your letter.

22 MR. PELSER: Director of Recycling.

23 I have brought with me today this letter that
24 you've just noted. I want to call your attention to.
25 It's a letter from the Chairman of our Board of

1 Supervisors supporting the staff, LEA, and Permitting
2 Committee's recommendation to concur with the permit.

3 This is an item that's important to us and to our
4 Chair, who also happens to be Supervisor of the district
5 that hosts this facility. And he wants to make sure you
6 were aware of that and this facility is a pet project of
7 his. He was instrumental in a number of improvements that
8 were made to the facility several years ago that went
9 beyond the State requirements and the CEQA mitigation
10 requirement.

11 And it's as a result of those improvements that
12 he personally participated in assuring occur that gives us
13 the opportunity to increase the daily vehicle count and
14 tonnage in this requested permitted revision without any
15 adverse impact, because we've already built that in that
16 capability and the traffic improvements with the
17 signalized intersection several years ago. So he wanted
18 me to express his interest in this, assure you that as
19 you've been meeting in be Sacramento and not on a Board
20 day, he likely would have occurred before you himself.

21 CHAIRPERSON MARIN: We do appreciate the fact
22 Mr. Dickinson would have been here. I know he would have
23 been there if we had had our meeting in Sacramento. But
24 we thank him for sending you.

25 I know Ms. Peace had a question. So go ahead,

1 Ms. Peace.

2 BOARD MEMBER PEACE: I didn't have any questions
3 in particular, because I was at the P&E Committee meeting.
4 I had asked that this item be pulled because I needed to
5 vent my frustration over some of the things I saw in this
6 permit revision and how they relate to our permitting
7 process in general.

8 It seems as though Sacramento County follows a
9 violate now, revise permit later procedure as was stated
10 by Mr. Smith in his letter. And when the owner, the
11 operator, and LEA are one and the same, the Board needs to
12 I think scrutinize a lot more.

13 It bothers me that the LEA can submit a permit
14 package as complete even though it doesn't have the final
15 findings and the Board's 60-day clock starts. This really
16 puts our Board staff under a lot of pressure, which can
17 mean a permit does not get the kind of attention and the
18 public interest that the public deserves a permit to get.

19 I have a question. When you were saying this
20 clock starts as soon as the permit comes in, I thought it
21 could start even though the CEQA wasn't complete. I
22 didn't think -- I thought if we had other things that
23 weren't complete, in the RFI and those kinds of things, we
24 didn't have to start the clock. I thought it only
25 pertained to CEQA.

1 DEPUTY DIRECTOR LEVENSON: No. The LEA can
2 submit a permit application. Once we date stamp it in,
3 the clock starts since the LEA has to make a determination
4 that the application is complete and correct. We do not
5 have the legislative authority to as a Board or Board
6 staff to say that the application is incorrect or
7 incomplete and therefore return it and not start the
8 clock. So that's a gap in our own --

9 BOARD MEMBER PEACE: These are obviously
10 incomplete, because they don't the RFI and different
11 things.

12 DEPUTY DIRECTOR LEVENSON: There's a difference
13 between the application and then the proposed permit
14 itself, which has the accompanying documentation like the
15 RFI or other facility reports.

16 BOARD MEMBER PEACE: I, just like I said, want to
17 just really vent my frustration as to why our clock had to
18 start when it wasn't complete. Because like I said, I
19 think it gets the full attention that it deserves to
20 protect the public interest.

21 DEPUTY DIRECTOR LEVENSON: If I could just tag on
22 one thing to that, because we do share the concern about
23 our inability to reject what we think is an incomplete or
24 incorrect application. That is something that has been
25 run in the Legislature. And I think we talked about this

1 in the P&E Committee meeting. And it's certainly
2 something that still remains on our list of legislative
3 ideas.

4 BOARD MEMBER PEACE: It does bother me that the
5 LEA issued a stipulated agreement to exceed the daily
6 traffic limit when there was no apparent temporary
7 unforeseen emergency.

8 What bothers me even more about this is that we
9 interpreted the statute so the Board felt it didn't have
10 the legal authority to revoke the LEA stipulated
11 agreement, even though Code Section 17211-1 clearly states
12 a temporary emergency means a temporary and unforeseeable
13 circumstance. If exceeding the daily traffic limit was
14 truly due to a temporary circumstance such as what is
15 happening in Burbank because of a landslide and a fire,
16 then there wouldn't be a need for a permanent traffic
17 limit increase in this permit revision.

18 And it also didn't set well with me that the
19 LEA's inspection reports for 2002, '03, '04, '05 through
20 September showed no violations. But yet when our Board
21 did their pre-permit inspection, they found eight
22 violations of State Minimum Standards. And they weren't
23 like little, you know, paper control and stuff like that.
24 They weren't little things. They weren't little State
25 Minimum Standards. They were big things like drainage

1 control, hazardous and liquid waste, lack of signage, and
2 poor supervision. Those things don't happen overnight.
3 On the re-inspection, they still found three violations of
4 State Minimum Standards. And then on the re-inspection of
5 the re-inspection, then we finally got compliance.

6 And I guess it's just in my opinion that, I mean,
7 shouldn't a facility have to be in compliance with State
8 Minimum Standards such as these for more than just a
9 couple of weeks before we grant them a permit revision to
10 double their operations? I mean, this doesn't seem as
11 though we are making the public's health and safety and
12 the protection of the environment our first priority.

13 In some of these situations, I believe any
14 reasonable legal analysis of the current regulations leads
15 to an indisputable conclusion that our legal
16 interpretation is simply wrong. In others we have a clear
17 need for new regulations which reflect the letter and the
18 intent of the statute. And like Howard mentioned, I know
19 they are working on some of these.

20 And, finally, as I have indicated in the past,
21 there are other areas which require statutory change in
22 order to meet the obligations to protect the public
23 interest. And I just want, you know, to keep those in the
24 forefront. I'm not going to forget about these. I want
25 to push forward on some of these, because I think our

1 first priority is to protect the public and the
2 environment. Thank you.

3 CHAIRPERSON MARIN: Are you done?

4 BOARD MEMBER PEACE: I am finally done.

5 CHAIRPERSON MARIN: Oh, great. You know --

6 BOARD MEMBER MULÉ: I just thought they want to
7 respond.

8 CHAIRPERSON MARIN: No. It's just venting. She
9 has a right to do that.

10 Is there a motion for this item?

11 BOARD MEMBER MULÉ: Move approval of Resolution
12 2005-306 Revised.

13 CHAIRPERSON MARIN: Is there a second?

14 BOARD MEMBER WASHINGTON: Second.

15 CHAIRPERSON MARIN: Thank you.

16 Call the roll.

17 EXECUTIVE ASSISTANT BAKULICH: Mulé?

18 BOARD MEMBER MULÉ: Aye.

19 EXECUTIVE ASSISTANT BAKULICH: Peace?

20 BOARD MEMBER PEACE: They're going to get it
21 anyway. Aye.

22 EXECUTIVE ASSISTANT BAKULICH: Petersen?

23 BOARD MEMBER PETERSEN: Aye.

24 EXECUTIVE ASSISTANT BAKULICH: Washington?

25 BOARD MEMBER WASHINGTON: Aye.

1 EXECUTIVE ASSISTANT BAKULICH: Marin?

2 CHAIRPERSON MARIN: Aye.

3 Thank you so very much.

4 Is there any further items? Yes. There is one
5 more item. Mr. Estes, number one question I have for you,
6 do I have a car? I do, great.

7 (Thereupon an overhead presentation was
8 presented as follows.)

9 ADMINISTRATION & FINANCE DIVISION DEPUTY DIRECTOR

10 ESTES: Madam Chair, Board members, good afternoon. We
11 actually in the interest of time, we had a discussion that
12 we wanted to delve into revenue a little bit. If you
13 would like, I can come back at a later date and do that.
14 But I thought that this piece is a little bit more
15 important, I think, given the situation that Helen
16 Carriker will get into relative to how the fund operates.

17 And you know, I guess I'm happy to tell you
18 there's plenty of money to operate this year. It's next
19 year we're going to start to see some challenges in what
20 we consider the below the line distribution. With that, I
21 think I'll introduce Helen Carriker, who's the Branch
22 Chief of our Financial Services Branch -- Assistance
23 Branch. I should know that.

24 CHAIRPERSON MARIN: Yes, you should. But it's
25 okay. We forgive you.

1 ADMINISTRATION & FINANCE DIVISION DEPUTY DIRECTOR

2 ESTES: My fingernails are dirty. I was changing tires
3 this morning. With that, I'll introduce Helen.

4 CHAIRPERSON MARIN: Helen, please come forward.

5 FINANCIAL ASSISTANCE BRANCH MANAGER CARRIKER: He
6 called me Nancy for like six months. So the fact he
7 misses my branch, isn't that bad.

8 --o0o--

9 FINANCIAL ASSISTANCE BRANCH MANAGER CARRIKER:
10 Helen Carriker, Manager of the Financial Assistance
11 Branch.

12 The whole thing on this item is to talk about the
13 Used Oil Fund. And we're going to make it shorter than we
14 were going to. The used oil revenue is not coming in like
15 it had been in the past. It's declining a little bit.
16 And there's a formula that by statute is how we figure out
17 how the money goes. So I'm going to do this quickly.

18 --o0o--

19 FINANCIAL ASSISTANCE BRANCH MANAGER CARRIKER:
20 Basically, there's different categories.

21 Category 1 is a recycling incentive program where
22 basically 16 cents per gallon goes back to people who are
23 recycling certified centers, et cetera.

24 Category 2, we have a minimum of \$10 million in
25 block grants.

1 Category 3 is a combination of like our
2 contaminated oil payments and other direct payments that
3 come out of there.

4 Category 4 is what we're really talking about
5 today. Our competitive grants, that's 60 percent of the
6 balance once the revenue minus all the expenditures, 60
7 percent of that goes to the competitive grants.

8 And then Category 5 which is 20 percent goes
9 there.

10 --o0o--

11 FINANCIAL ASSISTANCE BRANCH MANAGER CARRIKER:

12 What this shows you is basically it's the fund's
13 condition. And it's showing you if you note the top
14 number in yellow, the revenue for year one it's at 20
15 million, yet the total expenditures for year 1 is at 23
16 million. So what's happening is over time we are spending
17 more money than we're actually getting in.

18 Well, in the current year, it ends up being that
19 for those competitive grants we're talking about, that 80
20 percent, it's at \$3.2 million. But going into the out
21 years, it's only going to be about 644,000. And depending
22 on how the money ends up coming in, it looks like those
23 programs may eventually go away.

24 We wanted to bring this to the attention of the
25 Board now. These things may change. The money may come

1 in higher. Things may happen where expenditures go down.
2 But we wanted to show that to the public and to the Board
3 members at this point in time.

4 ADMINISTRATION & FINANCE DIVISION DEPUTY DIRECTOR
5 ESTES: I think the point here is that in year two it's an
6 order of magnitude less, which is significant.

7 --o0o--

8 FINANCIAL ASSISTANCE BRANCH MANAGER CARRIKER: We
9 are talking about trying to maximize the funds. We can
10 control the expenditures. And two key areas of
11 controlling is the contracts and the grants. The
12 expenditures of the contract, though, first thing you've
13 got is our mandatory list. That's \$790,000. That's
14 things like auditing and legal things that we're basically
15 mandated to do. Then we had the Category 5, the 20
16 percent, which you're going to be hearing that next month.
17 That we could control those grants and contracts a little
18 bit easier.

19 --o0o--

20 FINANCIAL ASSISTANCE BRANCH MANAGER CARRIKER:
21 Then the grant programs, there's different types of grant
22 programs. And there's the non-competitive, the block
23 grants, at 10 million. And then there's the competitive
24 grants which again that's the 80 percent or 60 percent
25 that we were talking about.

1 --o0o--

2 FINANCIAL ASSISTANCE BRANCH MANAGER CARRIKER: We
3 sped through it so I'm going of -- do you have any
4 questions?

5 CHAIRPERSON MARIN: No. I think more than
6 questions it's a realization that we really need to come
7 to grips with that and talk to our stakeholders who have
8 so willingly been trying for competitive grants, just to
9 let them know that that fund is going to be non-existent
10 in the very near future. So I think that this gives us an
11 opportunity to let the public know what the status of the
12 fund is. It doesn't come in too early. I think there
13 will be enough of a warning time to let them know that
14 these moneys will not be forthcoming simply because the
15 fund will be non-existent. So I appreciate you, Grace,
16 for your opportunity to come in, Patty, whatever your name
17 is.

18 FINANCIAL ASSISTANCE BRANCH MANAGER CARRIKER:
19 It's Helen.

20 CHAIRPERSON MARIN: Thank you. I knew it was
21 Helen. Okay. Thank you, Tom, John, Don, whatever.

22 Okay. We have one more person that when we
23 called her during public input, she was out of the room
24 for a second. Her item, the item she wants to speak, was
25 already heard and it was on consent, but she still wants

1 to make a statement. And we really appreciate you staying
2 here for the long haul to address the Board. And this was
3 Item Number 13.

4 MS. WOOD: Madam Chairperson, members of the
5 Board, we're honored to have you here in our building
6 today. And it was my pleasure. I intended to stay
7 through the entire meeting anyway. It was very
8 educational for me. I do apologize for being out of the
9 room. I left immediately after Elmer spoke. Often after
10 Elmer speaks, I feel I need to hit the locker room, change
11 into my gym clothes and hit the court, because I always
12 feel like my coach is here.

13 And I don't have anything controversial to say
14 about this item. Again, thank you for being here. And I
15 add my kudos to the staff that you've heard from a lot of
16 people for bringing in the stakeholders. I'm going to be
17 participating in two of the working groups. I'll be
18 wearing two hats. I'll be representing this department
19 and also the Legislative Task Force of the Solid Waste
20 Association of North America, which I also participate in
21 through this department.

22 And just the bottom line is we share the concerns
23 that have been expressed here about our role as government
24 agencies and protecting public health and safety. We take
25 that very seriously and the environment. And we want to

1 do that obviously in as affective a way as possible. And
2 one of the things we'll be looking for in how these
3 implementation goes forward is to be affective in that
4 goal, while not miring the process down in needless
5 paperwork and needless hearings. And that's all I have to
6 say. Thank you so much.

7 CHAIRPERSON MARIN: Thank you, Ms. Wood. And we
8 all feel that way when Mr. Elmer speaks. As a matter of
9 fact I was ready to go and -- I want to thank everybody
10 for taking the time to come to us all the way to
11 San Diego, everybody's participation, staff.

12 And just so that everybody knows, there is a
13 reason why there's five members and hopefully one day six.
14 We don't agree all the time, but we agree to disagree
15 sometimes on those issues in which we don't agree.
16 There's a lot of respect on this Board. There's a lot of
17 deference to Committee Chairs and to the Chair and to
18 staff and to everybody. And we try. Although we don't
19 agree 100 percent of the time on all of the issues, I
20 think that we all individually and collectively take our
21 job very seriously. Some of us are able to express it one
22 way or another.

23 But let me just assure everybody that each of us,
24 independent of our background, we have the best interest
25 of the public at heart. In the passion that you sometimes

1 see displayed by all of us is because we want to do the
2 right thing. And we will deal with all of the issues. We
3 eventually all come to agreement. But we do need to have
4 the right forum and right place and the right Committee to
5 deal with those very legitimate concerns that are before
6 us. But I just want you to know that all five of us now,
7 hopefully one day six of us, do feel very, very strongly
8 about our role and about the public safety and health that
9 we are charged with.

10 So I do appreciate everybody's willingness to
11 stay here with us through 2:00. And now let us all go and
12 do the right thing. Thank you so much.

13 (Thereupon the California Integrated Waste
14 Management Board, Board of Administration
15 adjourned at 2:01 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 28th day of November 2005.

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